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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA
Legislature



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

TUESDAY, JUNE 24, 1997
9:15 A.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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7 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 TUESDAY, JUNE 24, 1997

17 9:15 A.M.

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25 Reported by

26
27 Evelyn J. Mizak
28 Shorthand Reporter

SENATE HOUSE COMMITTEE

STATE OF CALIFORNIA

REPORT

STATE CAPITAL

FROM 1913

SACRAMENTO, CALIFORNIA

TUESDAY, JUNE 24, 1903

11:15 A.M.

Reported by

Ernest J. Miles
Sergeant Reporter

APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ALSO PRESENT

PETER G. PREUSS, Member
Board of Regents
University of California

SENATOR DEDE ALPERT

SENATOR STEVE PEACE

CECIL LYTLE, Provost
Third College
University of California at San Diego

GERALD L. PARSKY, Member
Board of Regents
University of California

SENATOR RICHARD POLANCO

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: Good morning. Well, it looks like it may be a little quieter hearing this morning. One of the benefits of spilling over.

I think, Senators Alpert and Peace, perhaps, since you're both here, Senators, I believe you wanted to introduce Peter, didn't you, so both of you do that.

Mr. Parsky, if you're not on a plane immediately, I assume you're okay.

SENATOR ALPERT: Thank you. This is my first time to do this, to actually come before the Senate on a confirmation, and I just want to thank you for letting me appear.

CHAIRMAN LOCKYER: We always turn the first one down. It's one of our initiations.

[Laughter.]

SENATOR ALPERT: I wanted to speak about Peter, who's someone that I have come to know as a friend.

The first time I met Peter was on Alumni Day when the UC alumni come up here each year, and he would come with a group from San Diego to talk about the University.

I think the next time I saw him was at a luncheon where he was touting the synergy between UCSD and the business community, and how well they tied in together. And then I've continued to see him over the years. Then, eventually as an alumni regent, and then with this last step, was appointment to the Regents.

1 And I thought, you know, he was a wonderful
2 choice to be appointed to the Regents, because it wasn't just
3 something that was done for political reasons, or just to reward
4 someone, but rather it was to put someone on the Board of
5 Regents who had shown an incredible love and commitment to the
6 University system.

7 This man has worked to promote the whole UC
8 system, and certainly especially the UCSD part of the system,
9 for years. This is not something new. This is long-time
10 commitment to the University.

11 In listening last night to some of the witnesses
12 who testified on his behalf before you closed down, I think over
13 and over again you heard the word enthusiasm. I think that very
14 aptly describes Peter. Whatever he gets involved in, he goes
15 full force.

16 He, I know, will be the kind of person, and has
17 been even in this almost a year that he's been serving on it,
18 that will use all of his time and energy to make the University
19 a better place.

20 I think a couple of special talents that he may
21 bring would be his success in the high technology field, and the
22 success that he has had. And part of his success has been
23 because of his work in the University, and then moving out into
24 the business field.

25 I think as we look to the future of California,
26 this is the kind of industry and the kind of connection that UC
27 and the business community actually does very, very well. He'll
28 bring that expertise and that ability as a member of the

1 Regents.

2 We're very proud in San Diego of all of the kinds
3 of work that he does, not only with the Regents, but an awful
4 lot of community service. And again, I think you heard
5 testified to yesterday his commitment to charter schools and his
6 work in trying to bring a more diverse population to the UC
7 system.

8 With that, I turn it over to Senator Peace.

9 CHAIRMAN LOCKYER: Good morning.

10 SENATOR PEACE: Good morning. How are you.

11 CHAIRMAN LOCKYER: You've been here before.

12 SENATOR PEACE: Yes, I have, so I've all ready
13 had mine. You can interpret that however you want.

14 I have not known Mr. Preuss for a long time. In
15 fact, I met him after his service as a UC Regent, so much of my
16 knowledge of his past service is, like most San Diegans, either
17 through intermittant contact or through reading through the
18 newspapers and within our community, and not in the political
19 meaning.

20 Within our community, he's an individual who's
21 extraordinarily well known as one of the true giant
22 humanitarians, and a person who, on issues and community
23 circumstances, and particularly those where he has had either
24 some personal business experience or personal experience that
25 he's been willing to share and help others with his knowledge,
26 his background, his experience.

27 Having had the opportunity now to speak with him,
28 keeping in mind I always first come to the UC as a UCSD

graduate, and is always referred to as the black sheep of the UCSD, frankly I'm always looking for somebody at UCSD that likes me. And I'm still looking.

And you all have heard me on occasion say some pretty harsh and critical things about my campus, of which I am an alumnus.

There are two things that I found extraordinary about the consciousness, not only now as a former student at UCSD, but at a parent who is beginning, who is dealing -- I have a junior in high school who's now looking at colleges. And two things struck me in my conversations which I had with Peter. With all due respect to the other Regents, I have never in any conversation with a fellow Regent seen an awareness as of these issues as I did in the conversation with Peter. To me, they were very telling.

The first was his comment that the University of California's idea of improving their affirmative action program is producing a better brochure.

As a person who has grown up and lived in San Diego, and lived in the south of San Diego, and understands why a lot of kids in my district don't know where UCSD is, which so many of us referred to as the University of California at La Jolla -- which, if you'll remember historically, that's what they wanted to call it.

The second comment was really very simple. I started to make reference to the application process at UC, and how difficult. I didn't even get half a sentence out, and Peter told me more about how messed up the application to UC is, and

1 how it compared, in his words again, "You know that it is easier
2 to apply and fill out the application forms to go to Harvard
3 than it is to go to UC."

4 CHAIRMAN LOCKYER: Today we say Princeton.
5 Mr. Parsky is here.

6 SENATOR PEACE: He is a very practical, focused
7 man with a wide breadth of experience, and unique experience, as
8 Senator Alpert has indicated, that he brings to the Board in
9 terms of his own both personal and business experience, which
10 stands by itself as qualification.

11 But what has made me a very enthusiastic
12 supporter, to be honest with you, was an opportunity to speak
13 more as a parent and a former student with him, and see how much
14 time he's obviously spent on the sorts of things that most
15 people in these appointed positions, whether they be UC Regents
16 or something else, don't pay a lot of attention to. They don't
17 get down to the nitty-gritty of what do the application forms
18 look like, and how can we make it more user friendly.

19 So, he has a consciousness level and a practical
20 kind of knowledge and commitment to making the campus
21 student-friendly, which has always been my number one complaint
22 with my beloved institution, which I love dearly and appreciate
23 the opportunity to have gone to.

24 But I am personally committed to refocusing this
25 institution, not away from its research responsibilities,
26 but more firmly toward its student and teaching
27 responsibilities.

28 And I sense in Peter Preuss a level of commitment

1 and understanding the importance of that, which I quite frankly
2 have not seen replicated in any other Regent. I think that he
3 has the opportunity and the enthusiasm to be leader on that
4 issue, which to me is the most important issue facing the
5 University.

6 Thank you.

7 CHAIRMAN LOCKYER: Any questions for our
8 colleagues? Okay, thank you.

9 Dede, maybe you're the one I ought to ask,
10 Senator Alpert, because you've known the family for a long
11 time.

12 I hope that Peter's wife has considerable
13 influence, because I look at the make-up of the Board: 18
14 guys, 6 women.

15 SENATOR AYALA: That's about right.

16 [Laughter.]

17 SENATOR PEACE: Only 6 off.

18 CHAIRMAN LOCKYER: I want you to encourage her as
19 well to keep influencing.

20 SENATOR ALPERT: And again, from what I know, and
21 I don't know Mrs. Preuss as well, but I see her as a full
22 partner and someone who is very committed to education. And I
23 think certainly does her share of nudging as well for Peter.
24 Thank you.

25 CHAIRMAN LOCKYER: Mr. Preuss, come on up.

26 Do you want to start with any comment?

27 MR. PREUSS: Yes, I would like to, if I could.
28 I would like to make just a short statement. In a way, it

1 addresses some of the issues which all ready have been
2 addressed, so I apologize if I'm repetitive.

3 I believe that the University of California is an
4 incredible place for education, for research, and for the
5 service to all people of California. I have been fortunate to
6 have had the University of California as a close part of my
7 life. Since coming here as a foreign exchange student in 1965,
8 my career grew from the lessons and opportunities which were
9 available to me at that time in the University of California.

10 My family is healthy and alive today only
11 because of the advanced research of the University of
12 California.

13 So, I, in short, I'm willing to say that anything
14 good which happened in my life, in my adult life so far, had
15 something to do with the University of California. And that
16 really is the reason why I'm here today.

17 In 1993, the alumni of the University of
18 California, San Diego, elected me to sit on the Board of Regents
19 for two years, and for the past year, I've served as an
20 appointed Regent.

21 As a Regent, I have worked to maintain close
22 contact with all of the areas of the University. I've
23 maintained close contact with the staff of the University, very
24 close contact with the undergraduate students and the graduate
25 students. I've met many times with the faculty, and I've met a
26 number of times now with the Academic Senate with whom we share
27 governance.

28 I have had an active, close relationship with the

1 President and with virtually all of the Chancellors. Certainly,
2 staying in close touch with you is of vital importance for the
3 University of California, which is why I have visited you many
4 times in the last few years on occasions to talk with you about
5 higher education issues, actually even before I became a
6 Regent.

7 I firmly believe that the Regents must be willing
8 and eager to listen and to be responsive to all Californians,
9 and that's very important inside and outside the University.

10 As you can see from the support I've received in
11 the last few weeks, I enjoy good relationships with many of the
12 people involved in the life of our University. I believe in
13 seeking information and seeking advice.

14 I think you will also find that my record
15 demonstrates that I'm an activist. I'm an activist in the
16 outreach efforts to enable children with potential, who don't
17 come from privileged and upper-class neighborhoods, to become a
18 part of the University.

19 An activist to ensure that our teaching hospitals
20 are the best, that they maintain the strengths to be health care
21 providers for everybody, for all Californians in need, and to
22 remain the first and best educators of the doctors of
23 tomorrow.

24 And an activist for the teaching and research
25 that will continue to create new industries in our state, to
26 help define our state's future economy, and therefore, to create
27 more jobs for all Californians on all levels of the economic
28 scale.

1 My activism as a Regent will always be aimed to
2 ensure that UC serves, indeed, all Californians, and that UC
3 makes a difference and builds a better future for the people in
4 our state.

5 Thank you very much. I am looking forward to the
6 questions you will have.

7 CHAIRMAN LOCKYER: Well, I'll ask if there is
8 anyone present who'd wish to make a comment? Yes, sir, please.

9 MR. LYTLE: Good morning, Senators. My name is
10 Cecil Lytle.

11 I joined the faculty at UC San Diego in 1974.
12 Following two terms as Department Chair, I was appointed Provost
13 of Third College in 1988.

14 As many of you probably know, the Regents and
15 students and faculty of the campus put forward a name change to
16 rename Third College in honor of Justice Thurgood Marshall in
17 1993.

18 I'm here to speak on behalf of the confirmation
19 of Peter Preuss. I first met Peter in 1985 at a ceremony at UC
20 San Diego, where he was honored as the outstanding alumni. I
21 was also selected as the outstanding faculty member, I should
22 mention, at that same ceremony.

23 But that actually began our 12-year friendship
24 and 12-year working relationship. This is prior to Peter's
25 appointment as a UC Regent.

26 It was very clear that the leadership of Peter
27 Preuss is not just because of his appointment. It is in his
28 nature. The generosity that Peter has shown to this community,

1 to this campus, is again in his nature, and I suspect that that
2 nature, I trust that that nature will continue to his permanent
3 appointment as a Regent, or 12-year appointment as a Regent.

4 You heard yesterday from Coleen Sabatini, one of
5 our student presidents, actually from '95-96, about Peter's
6 association with students. He clearly seeks out the advice of
7 faculty, students; is a broker between all of the agents of this
8 particular campus.

9 But I've gotten really to know Peter quite
10 closely in the last three years that we have been part of this
11 initiative to build a public high school on the campus of UC San
12 Diego. Peter has been involved from the very beginning, not
13 just in regental matters, but in terms of serving as a broker
14 with faculty, students, and indeed the community of San Diego to
15 initiate this unique project.

16 It's a project that separates the talk from the
17 walk. Peter Preuss has always believed in the capacities of our
18 citizens to achieve two competing, what we think are competing
19 virtues, and that is academic excellence and cultural
20 diversity.

21 This project that Peter has joined me in for the
22 last three years is designed to bring to a university campus
23 motivated, promising youngsters from disadvantaged backgrounds.
24 It is the intent and the conceptual framework of this project
25 that Peter has helped to shape that we will make academic
26 excellence available to all of our citizens.

27 Peter Preuss has been involved not just in the
28 fundraising, but he has been involved in the building of the

1 community support for this. And I mean by community support,
2 galvanizing contributions from the corporate heads of
3 international corporations, as well as the galvanizing support
4 by parent groups locally in San Diego.

5 His infectious enthusiasm, I think, has been the
6 key element here, and again, it's an infectious enthusiasm I
7 think you have sensed this morning, and I think it's an
8 infectious enthusiasm that he will continue to bring to the
9 Board of Regents.

10 I would certainly ask that you confirm Peter
11 Preuss. He is someone who has contributed to the San Diego
12 campus in immeasurable ways, and I believe will contribute to
13 the University of California in the future.

14 Thank you.

15 CHAIRMAN LOCKYER: Thank you very much.

16 Are there questions? Thank you, sir. Good luck
17 with the outreach project.

18 MR. LYTLE: It will happen.

19 CHAIRMAN LOCKYER: Are there questions from
20 Members?

21 Peter, when did you first become an alumni
22 Regent? What was your --

23 MR. PREUSS: It was 1995. No, that's wrong. I
24 was alumni Regent, was 1993, I think. So, I sat until 1995,
25 June of 1995.

26 A vote we all talk about happened in July of
27 1995, a month after I had left the Board.

28 CHAIRMAN LOCKYER: The vote of July 20th, 1995.

1 MR. PREUSS: The vote, yes.

2 CHAIRMAN LOCKYER: I was looking at the fee votes
3 over a number of years. As alumni, did you start in the summer?

4 MR. PREUSS: I started in the summer, yes, July
5 was my first meeting, I believe.

6 CHAIRMAN LOCKYER: So, you missed the March fee
7 increase vote. You're a master of timing. July, okay.

8 MR. PREUSS: I hate to say, I wasn't the master.
9 It was the people who appointed me. I can't take credit.

10 SENATOR HUGHES: I've heard so very much about
11 you, and I'm very glad to finally meet you.

12 What's your opinion of what the Regents did in
13 abandoning the affirmative action program? As we see ourselves
14 fast becoming an ethnic minority state, what do you feel the
15 charge is as a Regent now to try to accommodate the students
16 that are in our state?

17 MR. PREUSS: I believe we now have a situation in
18 the University which we now, for the time being, have to live
19 with, and we have to now see and take it, and make the very best
20 out of it.

21 I described myself as an activist. I am looking
22 for things where I actually can help.

23 The vote in 1995 had two parts. The first one we
24 all know. The second one has gotten very little publicity, that
25 we should substantially increase the outreach of the University
26 of California.

27 I hate to report to you that at this point we
28 have got two draft reports, and will get a final report about

1 the outreach task force, which I have read, and which says,
2 let's do a little more of what we have done so far.

3 I believe that is not sufficient in going out. I
4 believe we have to have new ideas. I have a lot of new ideas,
5 some of them I am most willing and eager to share with you, to
6 go out and to really make the University of California a viable
7 place for the under-privileged children of our state.

8 SENATOR HUGHES: Well, Regent Ward Connerly has
9 recently adopted the attitude that we should have more
10 raise-based outreach. Yet and still, he voted against
11 affirmative action. This seems sort of contradictory.

12 How do you feel about his dual actions, and how
13 do you feel about his suggestion that we go out and get
14 raise-based outreach?

15 MR. PREUSS: It is very hard to second guess
16 Regent Ward Connerly. I really think would be very unwise for
17 me to even start.

18 I have my own ideas about how to do it. I
19 believe that we really have to go out and intensify our efforts,
20 and we cannot afford, as a University, to stand and wait for
21 things to happen, and stand and wait for all kinds of parties to
22 decide whether our actions are right or wrong. We have to go out
23 and do. So, that's where I put all of my energy, is to really
24 actively do.

25 The motto of our fundraiser we had in our town,
26 in our home, for the charter school was making outreach a
27 day-to-day event. That was a little headline we had. It was
28 on top of a little school house.

1 But not just talking; let's do. Anyway, let's
2 do.

3 CHAIRMAN LOCKYER: Mine is, when you wake up, get
4 up. When you get up, do something. They tease me in my family
5 about that.

6 On the same point, what are the specific things
7 that you would strongly recommend or are thinking about as far
8 as outreach?

9 MR. PREUSS: The high school located on the
10 campus, I will go into a little bit of detail there, but I will
11 then go beyond that.

12 The high school being on the campus, and I don't
13 like the word, charter school, because charter school is ladened
14 with predefined meaning. It is a high school for
15 under-privileged kids located on the campus. It's solving two
16 problems.

17 The first problem is that those kids we will be
18 choosing, which are kind of the second best kids -- not the
19 best, because the best are snapped away by the private schools
20 and all kinds of places. It's the kids who have a high degree
21 of potential, but in today's system are falling through the
22 cracks. Those kids frequently come from families where going to
23 college is not that important a thing, where they don't get
24 quite the support from their families like other kids do.

25 If they live four years on the campus, they will
26 know, will be interested, in the campus life. There's another
27 aspect of it --

28 CHAIRMAN LOCKYER: Live on the campus?

1 MR. PREUSS: No, I mean --

2 CHAIRMAN LOCKYER: Attend school?

3 MR. PREUSS: Attend school on the campus.

4 Another aspect of it is, the faculty of our
5 campuses have been very, very outspoken with regard to the
6 support of the abstract issues. The faculty of our campus
7 nevertheless does what the Preusses and the Clintons do, they
8 send their kids to the best schools they feel their kids can
9 have, and the problem of today's education is on the other side,
10 not even off Highway 5. It's on the other side of Highway 8,
11 which is far, far away. Some how or other, we have to get this
12 problem to be visible to the faculty so when they are in the
13 shower in the morning, and think about things, a small
14 percentage of the faculty will think about innovative ways of
15 how we can do education better.

16 That then leads to the last part of this whole
17 project, the part it would be the equivalent of something the
18 University has been very good at, the agricultural field
19 station, the research, the bio-technology research lab, where
20 all institutions which, in an abstract sense, in a laboratory
21 sense, tried things, which then was exported to whole state to
22 benefit the whole state. We are one of the leading -- the
23 leading agricultural area in the world because what we tried in
24 the agricultural fields, this is an urban field station to learn
25 new ways to do something which we can get better, which we can
26 learn in, with very little research being done compared to most
27 any other industry in this state.

28 Now, the other aspect of it, I don't know.

1 SENATOR HUGHES: I want to ask you about, is the
2 high school on the campus now, or is it just in the planning
3 stage?

4 MR. PREUSS: The high school was just voted
5 down by the faculty.

6 SENATOR HUGHES: Oh, it was?

7 MR. PREUSS: It was voted down by the faculty.
8 And the problem I have personally, I said, I cannot detect a
9 good reason, and that makes me very sad.

10 SENATOR HUGHES: Are you going to give up or try
11 again?

12 MR. PREUSS: Oh, no, no. As the administration
13 is saying, we have to be very even-handed, and we have to listen
14 to the faculty, which we have to.

15 And I mentioned in my talks that I very much
16 respect the dual governance, but at the same time, the
17 community, the community across all boundaries of political
18 attitude, is so firmly for it.

19 I think we have two very well-to-do, as it turns
20 out, Democrats in our city who are willing to build the school
21 house, who are willing to put big, big money up.

22 This community, it has been mentioned in our
23 newspaper every day, I think you can say, for the last few
24 weeks.

25 CHAIRMAN LOCKYER: Who's the funders?

26 MR. PREUSS: I am not free to tell you that.

27 CHAIRMAN LOCKYER: I thought it was public.

28 MR. PREUSS: No, it's not public. We have very,

1 very strong, and I don't want to hurt the possibilities of it.

2 SENATOR HUGHES: Even though you wouldn't have
3 now, because the faculty didn't vote to have the high school on
4 the campus, what about the possibility of them adopting a high
5 school that's somewhere in the community and providing the kinds
6 of services that you had envisioned a high school on the campus
7 having?

8 MR. PREUSS: Senator, I would love to have a long
9 conversation with you about that. And let me be very short
10 about that.

11 This is something we definitely have to do as
12 well in a much, much broader scale than we ever have done
13 before. But the kernel of this idea, I believe, and I would
14 love to have the chance to talk, to really -- to have, if I
15 wish, a quick discussion with pros and cons about that, to go
16 through the rationale why it being on campus is so important in
17 this particular case.

18 SENATOR HUGHES: Let's pretend that the faculty
19 did vote, and you were going to have the high school on the
20 campus. It would be motivational to the students to be on a
21 campus which, hopefully, someday, they could attend as
22 undergraduate students.

23 What were your plans, if any, on providing an
24 opportunity for these students to perceive of themselves as
25 being undergraduate students, not necessarily on UC San Diego's
26 campus, but on any UC campus? Was that in your thinking at all?

27 MR. PREUSS: Look, to double our attendance of
28 under-privileged kids from different ethnic background is a very

1 easy to attain goal, something like that, because the numbers
2 are so dismally small. So, that is obviously the goal.

3 If you are on a university campus, and you are
4 breathing on a daily basis the -- you know, the undergraduate
5 students of the University in this plan, where it was planned to
6 employ them as tutors. And so, those are the kids who talk
7 about, you know, So-and-so went over to Davis, and So-and-so
8 went over to UCLA. The whole notion of all these issues would
9 be a day-to-day event for those kids. Whereas, in the poorer
10 high schools in our community, these things are not discussed
11 that much.

12 SENATOR HUGHES: How do you define
13 under-privileged students?

14 MR. PREUSS: Under-privileged students who are
15 out from economic backgrounds which are not the strongest.
16 Students who live in neighborhoods in our community which are
17 known to not have the quality of public high schools which are
18 the areas, other parts of the area.

19 And a privilege, I believe, young children have
20 which is very important with regard to their potential of
21 college education is their environment at home with regard to
22 previous college education of their parents, their relatives,
23 their friends. And those are the factors which I think we feel
24 are the factors most detrimental with regard to getting those
25 kids to come to our schools.

26 SENATOR HUGHES: Most economically deprived
27 students do not perceive of themselves actually going to
28 college --

1 MR. PREUSS: Correct.

2 SENATOR HUGHES: -- because their families don't
3 have the means, the economic means, to make it possible.

4 But some economically deprived students, like I
5 was, I had a college, a university up the hill from me, a
6 specialized high school up the hill from me, and a fantastically
7 wealthy private college up the hill from me.

8 I knew I was going to go to one, one day, but I
9 didn't even think of trying to get in the economically
10 privileged, the wealthy college campus.

11 How do we direct our students to have those high
12 goals and ambitions, because this being America, I think
13 anything is possible. I didn't as a child, but now I know it
14 is.

15 MR. PREUSS: And, you know, I agree with you. I
16 came here with one suitcase and with a fellowship which went
17 away a year later from the German government, who wrote me that
18 if I don't come back, they didn't want to hear anything from me
19 anymore. They didn't hear anything from me anymore.

20 So, in a not very comparable sense, I also know
21 everything in this state is possible, and we have to have people
22 realize that.

23 SENATOR HUGHES: I have introduced a measure,
24 Senate Constitutional Amendment 7, to amend our Constitution to
25 see that at least 12.5 percent of students from each high school
26 would be entitled, entitled, to admission to a UC campus,
27 because we find that the students who are college inclined feel
28 that they can only go to a community college and no where else,

1 or they feel that they shouldn't apply to UC because that's the
2 top of the mountain, and they can't climb that high, but maybe
3 they should go to CSU.

4 So, if we chose the cream-of-the-crop off the top
5 of high schools like 12.5 percent and said, you are admissible
6 providing that you have the academic standards within your own
7 high school, and I would think that any A student in any high
8 school, or B-plus student in any high school, should be the
9 same, no matter where the high school is located. Even if the
10 high school is located on your UC campus, they're not going to
11 be any better, necessarily, than the high school in Watts, or
12 the high school in south Sacramento, or something like that.

13 How do you feel about that? Could you as a
14 Regent conceive of us creaming off the top of each high school,
15 and encouraging and making it possible within the realm of the
16 imagination of any student and their parents, that they are
17 university material?

18 MR. PREUSS: Senator, that sounds like a very
19 interesting idea, and I would love to hear more about it, and
20 would love to study it, and certainly would be open to look at
21 it in great detail.

22 We have to do some change. We have some how or
23 other stem the tide.

24 The University of California is arguably the very
25 best post secondary education a kid can get in the world. And
26 in our high school and elementary school area, we are not
27 ranking that well among the 50 states in the United States. To
28 some how or other find a way how we can transition that bridge,

1 we have to try anything we can.

2 And I would love to have an opportunity to talk
3 to you in detail about that and learn about it, and its
4 alternatives, and perhaps decide what might be the best
5 alternative.

6 We, as Regents, cannot decide, but we certainly
7 can promote.

8 SENATOR HUGHES: Influence the decisions.

9 MR. PREUSS: Absolutely, and that's what -- I
10 will influence a decision in that direction, as I have in the
11 past.

12 The one which I really would like to get involved
13 in, I mentioned earlier, is something you had touched, and that
14 is, as a pass to the University of California through the
15 community colleges.

16 We are right now doing extremely well in some
17 community colleges and lousy in others. We are now seeing that
18 we don't have enough people entering our professional schools
19 who come from under-privileged areas of our society.

20 I think one of the paths which we can solve right
21 away, which does not take two generations to come to take place,
22 is to somehow or other publish that path in a major fashion, and
23 understand why certain community colleges do not have a good
24 crop of people who are being promoted up into the University
25 system, and what we can do other than brochures to make them
26 take that step.

27 CHAIRMAN LOCKYER: Are there ones that come to
28 mind that are doing particularly good or bad job?

1 MR. PREUSS: Senator, I apologize. Those data,
2 all this is just in the beginning in my mind. I have to do a
3 lot of studying. This happened all within the last couple of
4 months. And the last couple of months, the preparation for this
5 meeting has taken a lot of time.

6 CHAIRMAN LOCKYER: Sorry about that.

7 SENATOR HUGHES: I am concerned that the number
8 of applicants to your medical schools who are ethnic minorities
9 have dropped. And also the number of applicants to Boalt, and
10 your fine law schools.

11 And do we do to encourage these students to
12 apply?

13 MR. PREUSS: We should -- first of all, what I
14 believe is one of the key things to do is, we should increase
15 the pool. We should increase the pool of which they are being
16 chosen.

17 SENATOR HUGHES: How?

18 MR. PREUSS: If we would take them as a model of
19 the best community colleges and see what they are doing with
20 regard to forwarding kids to the University of California
21 system, and extrapolate that one to all community colleges, we
22 wouldn't have that problem any more. That's a very good first
23 step, and that's one which doesn't have to wait. We can do that
24 fast.

25 CHAIRMAN LOCKYER: I have a suspicion it's
26 demographic and economic. You're going to find different
27 families clustered in different colleges.

28 MR. PREUSS: That's what we have to find

1 solutions for.

2 CHAIRMAN LOCKYER: I agree.

3 I tease my colleague with her twelve-and-a-half
4 bill, because I, of course, regard it as the False Address Act
5 of 1997. It gets a whole lot of people who want to get into UC
6 who live in Beverly Hills to somehow register their kids in
7 South Central.

8 SENATOR HUGHES: That would be the greatest thing
9 that ever happened. I like it.

10 [Laughter.]

11 CHAIRMAN LOCKYER: They may not spend any money
12 in South Central, but they rent an apartment.

13 SENATOR HUGHES: Just think of the wonderful
14 human interaction, what the ghetto and the barrio students could
15 teach the upper-middle income students about survival.

16 CHAIRMAN LOCKYER: Here we go, 90210.

17 SENATOR HUGHES: I mean, our students have real
18 survival skills. That's a great idea that you have, Senator
19 Lockyer.

20 CHAIRMAN LOCKYER: But her seriousness and the
21 Senator's commitment to figuring out how we broaden the number,
22 and kinds, and types, and specially low-income students going to
23 university is very genuine and a real problem.

24 It's obvious that you're sincere about wanting to
25 figure that out. If it were easy, someone would all ready very
26 done it, probably.

27 MR. PREUSS: That doesn't mean that we shouldn't
28 try.

1 CHAIRMAN LOCKYER: Right.

2 We talked about the high school connectedness,
3 and especially UCSD.

4 How's that going to evolve? How will that maybe
5 take place?

6 MR. PREUSS: I think the shared responsibility
7 for all those things is serious beyond only the Regents and the
8 faculty. I think an outcry of the community as loud as it is
9 happening right now in San Diego should be noticed. And it's
10 not subsiding.

11 CHAIRMAN LOCKYER: Was it basically just ivory
12 tower sentiment that was the reason for the no, or what
13 arguments did you hear?

14 MR. PREUSS: Senator, it's a diplomatic thing for
15 me to not comment on this one.

16 CHAIRMAN LOCKYER: You've been around Mr. Parsky
17 too much. You're learning his little tricks. When you were
18 interviewed a year ago, you were much blunter.

19 MR. PREUSS: I learned a lot.

20 [Laughter.]

21 CHAIRMAN LOCKYER: Something happened.

22 I was just asking for what arguments you heard
23 being made, not that you'd agree with.

24 MR. PREUSS: The key argument which was
25 originally being made is, you know, these are funds which we
26 needs so desperately for other things.

27 Which led my wife and me -- and keep in mind, you
28 mentioned earlier that we need more influence of the female side

1 on the Regents -- my wife is my full-time partner in this one.
2 My wife has been for 19 years teaching school in public schools,
3 both in Pasadena and then later on right on the border in San
4 Diego. She knows that problem so much better than I do, so that
5 much of the ideas and much of the incentive for that is coming
6 actually from my wife, who's sitting in the audience.

7 We decided, when that argument came about, said
8 that we have to -- and we said, of course, the community would
9 be most willing to jump in. We decided, okay, then, let's jump
10 in. And we ourselves stepped forward, and we then went to our
11 friends.

12 And the reaction we got among our friends across
13 the board of political spectrum -- we have -- my wife and I do a
14 lot of fundraising. We've never seen a project which has gotten
15 this response. We didn't get noes. I mean, there's somebody
16 who came forward, "We match your gift, but we only match your
17 gift because we don't want to put you into a shadow." I said,
18 "Okay, put us into the shadow, fine. We don't mind."

19 I am convinced that this would be the most
20 successful fundraising drive for a special project in San Diego,
21 bar none.

22 CHAIRMAN LOCKYER: You think it'll work out in
23 terms of its eventual acceptance?

24 MR. PREUSS: We need your help as well.

25 CHAIRMAN LOCKYER: Really.

26 MR. PREUSS: Yes.

27 CHAIRMAN LOCKYER: How would we assist?

28 MR. PREUSS: We are now talking real politics, so

1 you could assist by providing specialty monies for it, monies
2 which are not -- which are ear-marked for it.

3 You could assist for speaking out for it, for
4 making it attractive for all parts of the University to take it
5 more seriously.

6 We have to get serious about this.

7 CHAIRMAN LOCKYER: Senator Peace, you know, is
8 serving now on the Budget Conference Committee, which is meeting
9 right now. I know he has considerable enthusiasm for this.
10 You might want to make sure to talk with him soon about trying
11 to add it into the budget.

12 MR. PREUSS: I have a note here saying, "Preuss,
13 Lytle, re: charter school. Please meet with me at 3:30
14 yesterday afternoon."

15 We missed that one.

16 CHAIRMAN LOCKYER: We were doing something else.

17 But please do, because he actually has the
18 ability, as a budget writer of the conferee, to assist with that
19 type of thing.

20 Then the community college connect, and those
21 channels of students, are there any others that you'd recommend
22 on trying to broaden the diversity of the student population?

23 MR. PREUSS: The one Senator Peace mentioned is
24 something which is a trivial one, and I even am ashamed to
25 mention it, but it really is a barrier.

26 I mean, if you are giving a child who does not
27 have college educated parents a document which they don't want
28 and perhaps to even fill out, and it is so hard, it's harder

1 than a 1040, that, I think, is an insult with regard to our
2 commitment to outreach, and it should be rectified as fast as
3 possible.

4 Now we have a new method. We now do it on the
5 computer. That's again singling out. That's again not reaching
6 down.

7 What we should have, we should have a form which
8 is easier than the form even for our state universities. Our
9 state universities are easier today. There is no excuse for
10 that.

11 I found that out when my son was filling out
12 forms and did all with his left hand until he came to ours.

13 I'm very proud to announce that he was accepted
14 in three UC campuses. I'm sad to report that he chose not to go
15 into either.

16 CHAIRMAN LOCKYER: Where did he go?

17 MR. PREUSS: USC. He starts this fall. That
18 alleviates the possibility of a conflict of interest.

19 CHAIRMAN LOCKYER: Senator Hughes.

20 SENATOR HUGHES: I thank you very much.

21 MR. PREUSS: Thank you very much.

22 SENATOR AYALA: I have a couple questions I want
23 to ask you before you leave. I'll probably be going to plowed
24 ground on the questions asked by Senator Hughes, but I'll try to
25 phrase them differently so maybe the answer will be same but
26 from a different approach.

27 I have a difficult time supporting anyone that
28 would vote to raise fees for students without providing some way

1 to work it, out unless they're physically unable to do so.

2 Education's not free. It's supposed to be, but
3 it isn't. There's nothing wrong with the students working to
4 pay for their education. Many, many successful people have done
5 that.

6 So, the perception up there around the state,
7 that's why they vote against bonds for prisons and for schools,
8 because they have lost confidence. A lot of people think the
9 Regents aren't very responsible when they support giving the
10 President and Chancellor who're retiring hundreds of thousands
11 of dollars in a pension, whether it's by a prior commitment from
12 a prior board, and then raise the fees of students. It doesn't
13 make sense. The University is there to educate students, not to
14 provide good retirements for your administrators.

15 Can you explain your vote in support of raising
16 fees for students without providing some way for them to work it
17 out if they're physically capable to do so?

18 MR. PREUSS: In the previous hearing a year ago,
19 I was telling an anecdote where I found myself in a situation
20 where suddenly I was told that my, in different dollars, in a
21 different time, \$200 quarterly fee was raised to \$500 because I
22 was reclassified as an out-of-state student, and nobody had told
23 me until last moment. I had \$200. I had \$199 was the dollar
24 last dollar to be put into it in my saving account, and not
25 500.

26 And I was rescued by a professor who bought a
27 piece of grading software I had written and he used. So, I know
28 the situation very well.

1 I have not voted for a major increase in the
2 three years I was here. I voted for that first stage of the
3 professional school increase. And I did not vote for the second
4 stage, because I felt that the whole plan had somehow or other
5 gotten terribly mixed up and nobody really knew what was
6 happening.

7 Certainly, I voted very strongly, and this is, I
8 apologize, self-interest from a memory, that in the great
9 wisdom, it was suggested, why don't we just increase the
10 out-of-state fees, which primarily hit foreign students because
11 they cannot become in-state residents. And if you listened
12 today to the CEOs of the technology companies in this country,
13 in your district, you'll find more of them with a heavy accent
14 than you could possibly imagine. Those are people who generate
15 jobs in our society, and we should not totally exclude them by
16 just saying they're not a constituency, so let's raise their
17 fees.

18 CHAIRMAN LOCKYER: You voted no on that?

19 MR. PREUSS: I voted no on that. That did not
20 succeed.

21 CHAIRMAN LOCKYER: That was the January, '97
22 vote, which I hope, we'll never know, but I hope it isn't just
23 confirmation politics but principle. Del Junco, Parsky, Preuss,
24 all voted no to that increase.

25 MR. PREUSS: I voted no on that because it still
26 mentally hurt when it happened to me.

27 CHAIRMAN LOCKYER: Good for you.

28 SENATOR AYALA: I didn't quite understand your

1 answer.

2 You didn't vote for increase of student fees?

3 MR. PREUSS: Correct.

4 CHAIRMAN LOCKYER: Let me run through them, if we
5 could. See if your memory is correct.

6 January '94, I think you would have been on the
7 panel at that time, there was a proposal to increase the fees by
8 \$620.

9 Does that sound right, January, '94?

10 MR. PREUSS: Senator --

11 CHAIRMAN LOCKYER: Six hundred plus twenty. You
12 were a member, I think, an alumni rep at that time.

13 MR. PREUSS: Oh, I was in my first year of alumni
14 Regent. I'm not allowed to vote.

15 CHAIRMAN LOCKYER: You aren't? They have those
16 rules, you don't get to vote?

17 MR. PREUSS: No, because if you would be there
18 for two years, you would have to confirm us. It's the
19 confirmation process, so that first year, we are not voting.

20 CHAIRMAN LOCKYER: We'll let you vote. We'll do
21 this, a little torture.

22 Good. See, I told you, your timing is
23 excellent.

24 March, '95, there's a fee increase for selected
25 professional schools.

26 MR. PREUSS: That is correct.

27 CHAIRMAN LOCKYER: You voted yes on that?

28 MR. PREUSS: I believe --

1 CHAIRMAN LOCKYER: Was this medical and law?

2 MR. PREUSS: Medical and law, yes.

3 CHAIRMAN LOCKYER: What was your reasoning in
4 this instance?

5 MR. PREUSS: Because the discrepancy to other
6 professional schools was so high.

7 I have proposed in the past and am proposing
8 that -- and one of the key arguments that people who go into
9 public service would not be large earners and could pay back
10 whatever money they -- we should have a program where we
11 explicitly give aid, which, if people go into public service,
12 will be forgiven. That would solve that problem, I think,
13 better than we're doing right now. Actually, also then
14 encourages people to do the thing we all believe they should do.

15 CHAIRMAN LOCKYER: All right, I get you. You
16 were for increasing them, but forgiveness in the instance of
17 low-income public service?

18 MR. PREUSS: Correct.

19 CHAIRMAN LOCKYER: Then the one, Senator, that he
20 was talking about last was the non-resident and non-California
21 tuition, and he voted against --

22 MR. PREUSS: I voted against that because that
23 was also an increase of the professional school, and I voted
24 against that one as well, because somehow or other, the
25 explanation didn't make any sense.

26 SENATOR AYALA: The perception up there, and
27 sometimes perception is stronger than the truth, is that you
28 folks are reckless with people's money when you give these

1 Chancellors and Presidents all kinds of benefits at the expense
2 of student fees.

3 And I would support you if you did that. I don't
4 think you're up there to do that. You're supposed to be
5 providing education for everyone who's eligible, not just for
6 the elite who have financial means.

7 MR. PREUSS: Senator, I totally agree with your
8 sentiment. I totally do.

9 CHAIRMAN LOCKYER: On that topic, general
10 philosophy with respect to undergraduate student fees?

11 MR. PREUSS: Undergraduate student fees should be
12 a measure of very last resort.

13 I believe very strongly in the sentiment of the
14 Master Plan. We still should be bound by the strong sentiment
15 of the Master Plan. That is against that sentiment.

16 So, it has to be a measure of last resort.

17 SENATOR AYALA: What's your position on banning
18 donor-based admissions, where you have some influential alumni
19 providing some funds for the University, and they get preference
20 over other students.

21 We have information that on a number of
22 occasions, that student wouldn't have passed the entrance exam,
23 but because the father or mother were good alumni and provided
24 funds, they were able to attend the University.

25 What is your position?

26 MR. PREUSS: There should be nobody accepted to
27 the University of California who's not qualified to go there.

28 At the same time, I believe I, as a Regent, have

1 absolutely no right to give any kind of favors of that sort
2 whatsoever. And I have a hard time to see who else in the
3 University should have those rights.

4 This will be an issue which will be discussed at
5 length in the upcoming meetings. And we will have to
6 consolidate our opinions with those of the Chancellors and the
7 faculty in our shared governance, but we'll have to come up with
8 something which is better than what we have today.

9 SENATOR AYALA: We were told yesterday by Dr. Del
10 Junco that Regent Connerly was premature in introducing that, a
11 policy procedure whereby this would be banned, and you folks
12 turned him down.

13 MR. PREUSS: We better get to it at some point.
14 I mean, we have to make this decision, and just postponing it
15 doesn't help it much.

16 So, I don't agree with it, no.

17 SENATOR AYALA: He didn't go through the proper
18 process to get that proposal before the Regents. Is that what
19 took place?

20 MR. PREUSS: I think it was procedural.

21 SENATOR AYALA: Has anyone reintroduced it with
22 the proper process to make sure it doesn't happen again?

23 MR. PREUSS: That's the way I understand it,
24 correct. This will have to be solved with us. It is in some
25 process to come up in the very near future again.

26 SENATOR AYALA: I don't have any more questions,
27 Mr. Chairman.

28 MR. PREUSS: Thank you very much.

1 CHAIRMAN LOCKYER: Don't go away.

2 The July meeting includes some consideration of
3 domestic partner benefits for members of the University
4 community.

5 Do you have a disposition with respect to the
6 matter?

7 MR. PREUSS: I believe that to a large extent
8 that this is a labor relation issue. We have to be at
9 competitive place with regards to our environment to others, and
10 we have to come up with a resolution of it.

11 There are all kinds of varieties of that one.
12 What exactly the boundaries are. I have not had time to study
13 those yet. They are coming in front us in the July meeting.
14 I'm looking forward to that one. I'm looking forward to
15 studying it very carefully.

16 I'm not violently opposed to it. I'm not ready
17 to give the ship away. And I would like to learn what the
18 parameters are and will vote accordingly.

19 CHAIRMAN LOCKYER: So, your assessment would be
20 essentially fiscal and labor relations, or competitive hiring
21 policy?

22 MR. PREUSS: It's a part of doing the business of
23 the University.

24 CHAIRMAN LOCKYER: In the time you've been on the
25 Board, does any vote stand out in your mind as the toughest,
26 most difficult?

27 MR. PREUSS: That's a hard question. I tend to
28 take them pretty seriously, all of them. No, that's wrong.

1 There are lots of them which are purely procedural, and those I
2 do not take to.

3 The fee issues are always very problematic
4 because they make us weigh all the different factors of the
5 University.

6 I believe that there are issues coming up with
7 regards to how aggressive we are with regard to our outreach,
8 which I will take very -- I have to watch to not take something
9 too personally. This is -- I will probably be very involved in
10 that one. And I don't like to not get as far in things as I
11 could, so that those I consider hard.

12 CHAIRMAN LOCKYER: What name of a fellow Regent
13 comes to mind that you find most persuasive, influential, on
14 your own thinking?

15 MR. PREUSS: We had a lot of Regents in the past
16 who were true statesmen, and who had a very even-handed approach
17 to it, and non-political approach to it.

18 I think if you say -- ask me that question at
19 this point, they all come. There's a whole set of it which
20 would go onto the top of that list.

21 CHAIRMAN LOCKYER: Is there a name?

22 MR. PREUSS: Of course, Regent Bergener, who did
23 great service for the University, being strong, opinionated
24 about many issues. And some of them I didn't agree, some of
25 them I agreed. But he always was even-handed and always made
26 the process of coming to decisions an easier one. It helped us
27 all. We really miss him dearly.

28 And Regent Williams was a Regent, collegian from

1 Fresno, was a very, very steady influence in many things.

2 And sat there with a very strong stature. Today,
3 we find ourselves on occasion to insult witnesses and to do
4 things which, I think, are not consistent with the dignity of
5 the office.

6 One of my private little views is that I would
7 like to work hard to restore the dignity of the office. Restore
8 is too strong a word, to make it stronger again.

9 CHAIRMAN LOCKYER: I understand. Well, there has
10 been, certainly because of these recent political controversies,
11 more involvement in the rough and tumble political world of the
12 University and its policies. That maybe was true in some prior
13 era, though I was student at UC Berkeley; was thrown out because
14 I was too involved in certain political things they disapproved
15 of.

16 MR. PREUSS: I only sold software, so somehow or
17 other --

18 CHAIRMAN LOCKYER: And the Reagan era was
19 tumultuous also with respect to University governance.

20 Maybe the good old days seem better than they did
21 at the time they were happening, I'm not sure.

22 The point is to get you to comment a bit on the
23 dispute about affirmative action. I think it's very important
24 to say that, because there's been misunderstandings that have
25 even been recommunicated by University leaders, like Chancellor
26 Young, that somehow there is a single issue litmus test through
27 which we screen Regents. It's not true.

28 What we're trying to do is to figure out how are

1 we going to deal with these matters. You weren't there for that
2 episode, but it seemed like the chief executive, who has
3 considerable influence as a Regent, had determined that the
4 breaking political issue that he could associate himself with
5 was the affirmative action dispute. And then Regents sort of
6 stumbled all over themselves, quickly trying to comply with his
7 political agenda.

8 Now, I don't doubt for a minute that Ward
9 Connerly is very sincere about his beliefs about it, and so I
10 don't attribute to entirely politics. But it felt like at least
11 the sort of catalytic event was essentially political, and then
12 there were various people who agreed for political or
13 philosophical reasons.

14 You weren't there. With a bit of hindsight, how
15 would you evaluate the positive and negative outcomes associated
16 with that policy change?

17 MR. PREUSS: I am, as you know, not affiliated
18 with one or the other side of the house. I have supported both
19 sides actively, and I will continue to do so, according to the
20 individuals involved.

21 I am -- and one of our alumni Regents testified
22 yesterday and said that the Regents body was a particularly
23 political body.

24 I was an alumni Regent the two years before him,
25 and when he came, told him this was coherent body of people who
26 all believe strongly the best for the University and are working
27 very hard, and this is a collegial body which is fun to be on.
28 And I was on this body feeling extremely good and enjoying it.

1 That went away as we were going into the
2 political arena. I believe it is one of my duties, which I take
3 very seriously to -- and I will tell you my methodology -- to
4 remove the political aspects of this body again as to whatever
5 extent I possibly can.

6 I felt when I left as an alumni Regent that I was
7 good friends with every one of the Regents. And that probably
8 led to my nomination, because, you know, I'm unusual nomination,
9 because they went to the Governor and said, "We want Peter
10 back." And I was with very good terms with every one of them
11 and could build consensus around the issues we talked. And I
12 do a lot of talking with individuals and building consensus.

13 Now, when you put a litmus test like this into
14 it, this whole process becomes much, much harder. The question
15 is should we ever have --

16 CHAIRMAN LOCKYER: And I'm not suggesting that we
17 do or should.

18 MR. PREUSS: No, I mean, we did, too. I was
19 looking at our side of the issue.

20 CHAIRMAN LOCKYER: I understand.

21 MR. PREUSS: And I wonder whether we ever should
22 have touched this particular area in the first place. That is
23 probably something we should have left to the politicians and
24 left to the people of California.

25 And we have to rebuild that. I consider that a
26 personal responsibility of mine, and I think -- I hope you heard
27 that when you heard my colleagues talk about me. This is what I
28 want to do, and this is where I spend a lot of time.

1 I go to most all events where Regents are asked
2 to attend. I mean, I have darn robe on all the time. But
3 that's where you have a chance to talk. That's where you have a
4 chance to build an understanding, a chance to build an
5 environment where you can solve problems.

6 I was not, distinctly not, appointed to this
7 position to represent the opinions of the Governor, whoever the
8 Governor is or may be in the future.

9 I am here, I think I was asked to represent my
10 own opinions.

11 CHAIRMAN LOCKYER: Other questions?

12 I would just want to close by indicating that
13 your sincere commitment to helping maintain and create the
14 finest university in the world is quite obvious, and your
15 enthusiasm for the task is clear.

16 I don't think you're going to have any problem
17 being confirmed, but I do want to go back and consult with
18 members of both caucuses, and most especially my own, but to
19 make sure they're familiar with some of the specific issues that
20 we've talked about today so they can make an informed judgment.

21 Thank you very much.

22 MR. PREUSS: Thank you very much for giving me
23 the time.

24 CHAIRMAN LOCKYER: Mr. Parsky, come on up if you
25 want. I think we can start.

26 Senator Polanco and Senator Rosenthal have both
27 made comment in caucus and otherwise about why they believe you
28 should be confirmed. We'll let them talk for themselves if they

1 get out of a committee hearing that they're currently caught up
2 in.

3 Do you want to start with a comment?

4 MR. PARSKY: Yes, if it's all right. I have just
5 some notes, and I thought I'd just make a few introductory
6 comments, and then be happy to answer any questions.

7 I consider the opportunity to serve on the Board
8 of Regents as an honor, one that involves the highest level of
9 public trust.

10 Today, I'd like to provide you with my views on a
11 few subjects, and then, as I said, be more than happy to answer
12 any questions.

13 The subjects I thought I might just touch on were
14 some general observations about the University of California.
15 Some general thoughts regarding the qualities that I believe are
16 needed of a Regent. Generally why I'd like to be a Regent. And
17 then to comment briefly on, in Senator Lockyer's expression, I
18 think, what I am really like.

19 First, some general observations at least from my
20 perspective about the University of California.

21 As a number of leading educators have said, our
22 society today is increasingly knowledge based. This
23 development, coupled with the technological revolution that we
24 are experiencing, will have a major impact on the educational
25 process itself.

26 Our society today, I believe, requires a
27 university that's large enough to serve the growing population
28 of California, but flexible enough to respond to the needs of a

1 diverse, educated people, and the research that's necessary to
2 keep up. Within this framework, I believe the key to the
3 University maintaining excellence will depend on its ability to
4 maintain the highest quality in three areas: the quality of its
5 faculty; the quality of its student body; and the quality of the
6 environment or physical plant in which education is provided.

7 The University of California is an \$11 billion a
8 year --

9 CHAIRMAN LOCKYER: Quality of faculty --

10 MR. PARSKY: The quality of the student body, and
11 the quality of the environment, the physical plant.

12 The University of California is an \$11 billion a
13 year enterprise, employing over 150,000 people. Because of its
14 size and strength in teaching, research, and public service, the
15 University is the source of more benefits to our state and to
16 the communities that house each of our campuses than any other
17 single institution.

18 Every great university, I believe, embraces a
19 diversity of thought and opinion. But the University of
20 California, as a public university, in the most diverse state,
21 has a further obligation of reflecting the mix of California's
22 population in the mix of its students, faculty, and staff.

23 I believe that both forms of diversity, a wide
24 range of intellectual perspectives and broad representation of
25 California's population, are indispensable in the mission as a
26 public university.

27 Just a few thoughts, general thoughts regarding
28 the qualities of a Regent.

1 First of all, I don't believe that any litmus
2 test relating to any one particular issue should be applied.
3 Rather, I feel it's the ability to exercise careful, fair
4 judgment that should be determinative.

5 Further, a Regent must be able to separate his or
6 her personal views from what is in the best interests of the
7 institution and of the people of California.

8 As one of my colleagues once said to me, a Regent
9 has to have the ability to step back and adopt the institutional
10 view.

11 And I would emphasize two other qualities: open
12 mindedness, being willing to listen to the various voices of the
13 University and the community, and appreciate the importance of
14 shared governance with faculty and administration; and
15 independence.

16 The University should be removed from politics as
17 much as possible. I don't believe it's possible to avoid
18 politics totally. The budget process, the University is very
19 much a part of the budget process; the public nature of the
20 University; and even the Regents appointment and confirmation
21 process.

22 But I believe that a Regent should guard his or
23 her independence very closely.

24 CHAIRMAN LOCKYER: Would this be an appropriate
25 place to interrupt for purposes of Senator Polanco popping in,
26 and then pick up where you left off?

27 MR. PARSKY: Sure, no problem.

28 CHAIRMAN LOCKYER: He's in committee, I know.

1 They're debating important things like card rooms near
2 cemeteries, or something.

3 [Laughter.]

4 SENATOR POLANCO: That's the other one.

5 Yes, Mr. Chairman and Members, thank you very
6 much.

7 I'm really pleased and honored, to be brief with
8 you, to lend my support and to ask the Committee Members to
9 support this candidacy of Mr. Parsky.

10 As you have probably read, he brings a tremendous
11 amount of distinguished service, both in the federal level in
12 his capacity there in the Treasury Department, but here in his
13 capacity as a Regent, a Trustee at Princeton University for ten
14 years.

15 He served on the Foundation Board of the UC San
16 Diego. He served on the Board of Governors at the Anderson
17 School over at UCLA and has really demonstrated a true
18 commitment to the standards and high principles of higher
19 learning.

20 So, coupled with his professional expertise, his
21 public service both in government and in the institution of
22 higher learning, I just want to lend my support and ask that we
23 support his candidacy, the nomination.

24 CHAIRMAN LOCKYER: Senator, would you permit me
25 to ask publicly a difficult question?

26 SENATOR POLANCO: Yes.

27 CHAIRMAN LOCKYER: Mr. Parsky very political in
28 the sense that, historically, he's been active as a major donor.

1 SENATOR POLANCO: Chair of the Republican
2 Convention.

3 CHAIRMAN LOCKYER: Right, the Convention and
4 causes and candidates.

5 No, I don't mind that, but I'm trying to work
6 through in my own mind how I would distinguish between that role
7 and the gentleman we talked about yesterday afternoon. Are they
8 different? Are there other factors that weigh positively or
9 negatively? How do you work through that?

10 SENATOR POLANCO: I would answer your question in
11 the following manner.

12 The individual who I spoke against yesterday
13 clearly demonstrated a pattern of conduct of engaging in the
14 political arena fully on initiatives, on issues, went beyond, I
15 think, that crossing the line.

16 I think here, I recognize that he had a major
17 role in the convention, as many of us partake in our side of the
18 aisle.

19 But I have not read, or I have any evidence of
20 going beyond, crossing the line. I think that is the
21 distinguishing standard that I've applied.

22 CHAIRMAN LOCKYER: I understand. Thank you.

23 SENATOR POLANCO: Thank you.

24 SENATOR AYALA: Senator, yesterday you spoke very
25 strongly against Del Junco because he supported increase of
26 student fees, which I also do.

27 The gentleman here to your right has done that.
28 How can you turn around and support one and not the other?

1 SENATOR POLANCO: I base it, and I go beyond just
2 the student fee issue.

3 SENATOR AYALA: There's nothing more important to
4 me than that. If you deny students of a lower income bracket
5 entrance because of their economic status, it's completely
6 wrong.

7 SENATOR POLANCO: And I agree with you, and I
8 disagreed with the Regents, every one of them who voted to
9 increase the student fees.

10 CHAIRMAN LOCKYER: I'm not sure he has.

11 MR. PARSKY: Excuse me.

12 I was not a part of the Regents for any of the
13 increases in student fees.

14 SENATOR AYALA: I must have phony information,
15 sir, because I have information that you supported increase in
16 student fees for undergraduate and academic graduate students,
17 or fees for students in professional programs.

18 MR. PARSKY: I don't know what date that relates
19 to, but I joined the Board of Regents in July of last year.
20 I've only been involved --

21 SENATOR AYALA: You have never supported
22 increasing student fees without providing some kind of a way to
23 repay them?

24 MR. PARSKY: I would be more than happy to answer
25 your questions about the student fee issue, but I don't believe
26 the issue of voting on student fees came up --

27 CHAIRMAN LOCKYER: Professional fee at schools
28 maybe?

1 MR. PARSKY: The professional schools may have
2 come up then, but I think --

3 SENATOR AYALA: No, I'm talking about
4 undergraduate fees.

5 MR. PARSKY: No.

6 SENATOR AYALA: You haven't done that, so I
7 apologize for having the wrong information here.

8 SENATOR POLANCO: Thank you, Mr. Chairman and
9 Members.

10 CHAIRMAN LOCKYER: Senator Alpert, is he a
11 constituent of yours, too?

12 SENATOR ALPERT: Almost. In San Diego, we take
13 great pride in anyone from San Diego County.

14 CHAIRMAN LOCKYER: He would be in Senator
15 Craven's district?

16 SENATOR ALPERT: He is Senator Craven's
17 constituent; that's correct, but again --

18 CHAIRMAN LOCKYER: Would you convince him to
19 think about running for the State Senate?

20 SENATOR ALPERT: Well, I hadn't thought about
21 that. There's an idea.

22 CHAIRMAN LOCKYER: You can confirm the Regents
23 then.

24 SENATOR ALPERT: I just again wanted to take a
25 moment to introduce another person from San Diego County. And
26 again, an extremely intelligent person, a person, I think, who
27 obviously, as we've seen, has had great success professionally,
28 but has gone so far beyond that, because with his professional

1 success, he has then been willing to give back to the community
2 in so many ways. I think that you can see from his record,
3 again, that very often it has been in the area of higher
4 education, be it from his own alma mater of Princeton, to his
5 work at UCLA, to his work On the Foundation at UCSD, and now
6 being willing to serve on the Regents.

7 And I think, again last night, as we heard
8 testimony from some people, a special expertise he brings is his
9 background in finance. Certainly, that is always an important
10 issue, but I think becomes even more relevant as we struggle
11 with some of the issues, like the medical schools, how to keep
12 things in the public good, and also run things in a fiscally
13 sound manner.

14 And I think that his expertise and his ability
15 add and bring another dimension to the Regents. So, again, I
16 feel like he's a very qualified person, and we're proud that he
17 makes San Diego his home.

18 Thank you.

19 CHAIRMAN LOCKYER: Sorry for the interruption.
20 Let them get back to committees.

21 Can you pick up where you left off?

22 MR. PARSKY: Sure. I just had two other brief
23 topics.

24 CHAIRMAN LOCKYER: Take your time. Time is not a
25 problem.

26 MR. PARSKY: One, as I mentioned, was just a few
27 comments on why I'd like to be a Regent. I have been one; I'd
28 like to continue.

1 I view it as a high form of public service. I
2 was brought up to think about ways in which you can serve your
3 community, and higher education has always been of major
4 interest to me.

5 I think I can bring something to this role. My
6 experience in the financial investment world, I believe, can be
7 helpful. I think my experience with other educational
8 institutions offers some degree of background that will be
9 helpful. And I think the international experience that I've had
10 can also be of help to an institution that is increasingly
11 international in its reach.

12 And finally, I am willing to devote the
13 considerable time and effort that is necessary to carry out this
14 job, and the time commitment is very significant.

15 CHAIRMAN LOCKYER: How much is it?

16 MR. PARSKY: Well, I can only talk for the past
17 year, but it's two and sometimes three full days a month, with,
18 I think, one a month off. And then there are other committee
19 meetings. I serve, for instance, on the Selection Committee for
20 the Chancellor at UCLA, and I think there were five or six -- I
21 think five of those meetings.

22 And as other issues arise, there are select
23 committees. So, it is considerable.

24 The location of the meetings have been, for the
25 most part, in San Francisco, but we just had a meeting at
26 Irvine, and I believe that there's now going to be an effort,
27 which I happen to think is very good, at other campuses.

28 Finally, and this is a little, I think, the most

1 difficult subject, but just to offer a few thoughts on what I am
2 like, because I think that, to some extent, that is an important
3 consideration on your part.

4 CHAIRMAN LOCKYER: You're right.

5 MR. PARSKY: It's difficult, I think, to
6 characterize oneself, but hopefully, enough people who know me
7 personally and have worked with me on Princeton's Board, on the
8 Board of Regents during the past year, and in other community
9 activities have either written or spoken about my honesty and
10 integrity, and have offered you a perspective on me.

11 Since these people, I think, represent a broad
12 cross-section of philosophical and political views, I hope that
13 you find that their perspective transcends politics.

14 From my perspective, I feel very fortunate. I
15 have a wonderful wife who attended UCLA, and two well-educated
16 and caring children. My daughter had the good fortune of
17 attending Boalt Law School. My son is currently at the Kellogg
18 School at Northwestern.

19 CHAIRMAN LOCKYER: Is Laura practicing law now?

20 MR. PARSKY: She's in the Honors Program at the
21 Justice Department. Now, we can debate whether that's
22 practicing law or learning, but I leave that to you, but yes.

23 My family means a great deal to me.

24 I view my responsibilities as a Regent as one of
25 true fiduciary. As a Regent, I believe I'm accountable to the
26 people of California and to my own conscience.

27 If you decide to confirm me, I certainly will do
28 my utmost to be open-minded, fair, and independent, and always

1 decide matters based on what I believe is in the best interest
2 of the institution and of the people of California.

3 Thank you very much.

4 CHAIRMAN LOCKYER: Senator Ayala.

5 SENATOR AYALA: I have question I should have
6 asked the other candidate as well.

7 You appear to be a good family man and proud your
8 family, as you indicated.

9 But as member of the Board of Regents, what are
10 your views about recognizing domestic partnership and providing
11 health care and other benefits to the employees, perhaps at the
12 expense of the students in terms of financial assistance? What
13 is your position on that, recognizing domestic partnerships for
14 employees?

15 MR. PARSKY: I don't have a defined position as
16 yet. I listened at the last meeting to a request that this
17 matter be fully aired and presented to us, which I now
18 understand it will.

19 I was a little concerned to hear that there has
20 been considerable delay in terms of getting the views of the
21 Academic Senate to the Board. It's coming.

22 I would endorse the comments that Peter Preuss
23 made in terms of wanting to pay particular attention to the
24 economic impacts and the labor impact of it, but I haven't heard
25 enough to really come to a definitive conclusion.

26 SENATOR AYALA: Does the City Ordinance, or
27 whatever directive there is, affect the University and their
28 employees as well as it pertains to the domestic partnership, in

1 spite of the fact that it could watering down funds that go for
2 education?

3 MR. PARSKY: I think you have to take all of that
4 carefully into account.

5 SENATOR AYALA: You don't have a position on it
6 yet?

7 MR. PARSKY: No, sir.

8 SENATOR AYALA: Thank you.

9 CHAIRMAN LOCKYER: Senator Hughes, do you have
10 anything you'd wish to ask?

11 SENATOR HUGHES: Yes.

12 Where did you grow up, Mr. Parsky?

13 MR. PARSKY: I was born and raised in West
14 Hartford, Connecticut.

15 SENATOR HUGHES: How did you choose Princeton
16 University?

17 MR. PARSKY: Well, I went to a secondary school
18 in Connecticut called Suffield Academy. And I was very
19 interested in athletics, and the soccer coach took me to
20 Princeton. No one from the school at Suffield had gone to
21 Princeton in, I think, about ten years, but I got -- I was taken
22 there by the soccer coach.

23 SENATOR HUGHES: When you attended Princeton, was
24 it still all male?

25 MR. PARSKY: Yes, it was.

26 SENATOR HUGHES: When you were on the Trustee
27 Board at Princeton, had the University become co-ed at that
28 point, or had they become co-ed before you were on the Board of

1 Trustees?

2 MR. PARSKY: They became co-educational before I
3 went on the Board.

4 SENATOR HUGHES: How did you feel about their
5 admitting females after it being historically all male?

6 MR. PARSKY: I was very supportive of
7 co-education. Although I wasn't on the Board, I did participate
8 in a number of discussions about the movement toward
9 co-education.

10 I felt it was extremely important, and took an
11 advocacy role within certain of the alumni groups in endorsing
12 co-education very strongly.

13 SENATOR HUGHES: What kinds of attitudes did you
14 hear from people who wanted to keep the tradition of it being a
15 predominantly male institution? And how did you challenge those
16 attitudes?

17 MR. PARSKY: I think the predominant view was
18 oriented around the word "tradition".

19 I happen to believe in certain concepts that
20 underlie that word. I think tradition is important, and I think
21 teaching young people from the past, and learning from the past,
22 and understanding what has gone on is important.

23 But I think you can cloud-over other more
24 important things with that word. And what we tried to do, those
25 of us that were advocates of co-education, was to explain how
26 isolated a campus Princeton became. And although there were
27 elements of tradition, educated on a campus when you're only
28 exposed to other males, and when your world is that isolated,

1 doesn't prepare you well for an integrated society.

2 So, the way in which we responded to these cries
3 for tradition was really more oriented toward explaining what a
4 college education is really about. Part and parcel of it is
5 preparing one for a role in society. And if you create an
6 isolated environment that is surreal or has no semblance of
7 involvement with the outside world, you're depriving students of
8 the real benefits of an education.

9 So, that was the point of view that we advocated.

10 SENATOR HUGHES: I, myself, came from a deprived
11 all-girl university, and was delighted after I graduated that
12 they started to admit males. So, I know exactly what you mean.

13 How do you think of your skills and insight that
14 you developed as a Trustee of Princeton and the changes that the
15 University went through prepare you for the change in the
16 make-up of the student body at UC, and the make-up of our state?

17 MR. PARSKY: I think on the one hand,
18 deliberations on an university board and experience of
19 deliberating issues on a board are very helpful, because you
20 begin to appreciate the importance of, as I described in a few
21 of my remarks, of adopting what I would call an institutional
22 point of view. That you bring certain experiences, and you
23 bring certain points of view that are personal in nature, but
24 it's really important, I think, to be able to do that.

25 And so, I think my experience on the Princeton
26 Board helped me in being able to take personal points of view
27 and bring them to bear, but ultimately adopt what is in the best
28 interest of the institution.

1 Second, I think that sitting around the table
2 with other Trustees and deliberating and understanding different
3 points of view is helpful in the process.

4 And third, the good fortune of being involved in
5 such a high quality university, where research is
6 well-respected, something that I have grown to really believe in
7 deeply, I think is good preparation. Understanding how
8 important a research university is to maintaining its quality,
9 maintaining the quality of its faculty. All of those factors, I
10 think, are helpful.

11 What I think is not as helpful, and what I have
12 learned in the past year, is there is quite a sharp difference
13 between a private university and a public university, and that
14 is a challenge. It's been a challenge for me in trying to
15 understand how to best perform your responsibilities as a Regent
16 in a public university context.

17 In particular, the fact that I don't think it is
18 -- I don't think it is difficult or inappropriate or that
19 different to be accountable to the public. I think as a
20 trustee, you are accountable, whether you're at a private
21 institution or at a public.

22 What is different is the public nature of many of
23 the deliberations. That is a challenge, because often you don't
24 have an opportunity to go through careful thought and to really
25 separate what I call the political from the substantive for the
26 university. And that is what I think every Regent needs to
27 continually remind himself of.

28 So, I think that that is a challenge, that I

1 don't think my experience at Princeton was directly applicable
2 to.

3 SENATOR HUGHES: How do you feel about the
4 charter school, high school, that was tried at UC San Diego?
5 Did you support that? What was your feeling about the faculty
6 rejecting that idea?

7 MR. PARSKY: The basic concept I did speak to
8 Peter Preuss about, and am quite supportive of.

9 I don't think I fully understand exactly why the
10 faculty took the position that they did. It hasn't been
11 explained to me, other than some general concern about the cost
12 benefit analysis. How many actual students that come within
13 this concept will be helped and will actually enroll in the
14 University of California.

15 I think that is a valid issue to be aired, but
16 and I'd welcome an opportunity to hear out the faculty, if that
17 is really where they were coming from. I don't know for sure,
18 but I think it's worth hearing, because with a variety of
19 different things you can do to maintain the commitment to
20 diversity, you have to choose an among a variety of different
21 approaches, all within what might be referred as a commitment to
22 outreach and a commitment to maintaining diversity. And in
23 making those choices, it is important to assess the cost benefit
24 analysis of doing it.

25 Now, with that introduction, I would say the
26 concept of having under-privileged or students of economic
27 disadvantage on the campus of the University as a model and as a
28 symbol that the University is committed, I think, is an

1 important concept, and I would endorse it.

2 SENATOR HUGHES: What about economic mixture
3 rather than just economically disadvantaged? If you had
4 affluent, less affluent, almost poverty-stricken students all
5 mixed together in terms of experimentation on a university
6 campus, would that have any value? Or do you think it's
7 inappropriate?

8 MR. PARSKY: Well, I think the more diverse the
9 groupings in learning, the better.

10 SENATOR HUGHES: So that if this is the
11 philosophy behind this particular UC San Diego charter school, I
12 heard them say under privileged. I didn't hear them say a
13 charter school with the economic mixture and ethnic diversity,
14 the kind of school that I perceived of.

15 Do you think it would be better, or do you think
16 it would be a nice experiment and that's all?

17 MR. PARSKY: It's hard for me to assess what the
18 outcome would be. I do think conceptually that creating an
19 environment with the diverse mix you described would be
20 positive.

21 SENATOR HUGHES: How do you feel about the low
22 enrollment of students at UC schools of law and UC medicine?

23 MR. PARSKY: It's a matter of concern.

24 SENATOR HUGHES: Because of, you know, the action
25 to abandon affirmative action? It's a matter of concern.

26 How will you articulate, or do you plan on
27 articulating your concern in terms of some action or proposal to
28 make it possible that we have a better mix, and we're not

1 depriving people, or disencouraging them from applying for UC
2 admissions?

3 MR. PARSKY: It is a matter of concern. What --
4 I do think that a significant portion of this matter relates to
5 psychology, what I would classify as psychology. People feeling
6 that they are not welcome, or that they cannot make it into the
7 admission pool.

8 And I think that efforts need to be made to
9 address that psychology on the part of the University. And
10 there are a number of things that can be done from the
11 admissions offices of the graduate schools in order to put
12 meaning to reaching out to students.

13 SENATOR HUGHES: Like what? I know that the
14 University of California campuses have many different outreach
15 programs in the surrounding community of their specific
16 campuses.

17 What else could be done? If I get my
18 Constitutional Amendment that's going to say that the twelve --
19 and I'm not saying this percentage is a constant, because it's
20 flexible, it might be changing as we attempt to negotiate it,
21 that students then could feel that the top percentile of their
22 high school would be admissible to the University of
23 California.

24 How do you feel about that concept in terms of
25 counteracting the fact that fewer and fewer of people are
26 applying for undergraduate or for the graduate programs of the
27 University?

28 MR. PARSKY: I think there are two different

1 issues. Both relate to the underlying need to maintain a
2 diverse student body at the undergraduate and graduate level.

3 I think the Constitutional Amendment that you
4 described, I think, is an interesting concept. I would -- my
5 understanding is that the administration, the President's
6 office, is undertaking an analysis of that now. I welcome the
7 thoughts of the University about that.

8 In particular, I would want to know how the
9 Amendment would impact, not just eligibility but admission
10 because just becoming eligible isn't necessarily going to solve
11 the problems of how we can continue to maintain a diverse body.
12 So, I would like to see how that would work.

13 So, I'm interested in that in that concept. I'm
14 not sure that there is an immediate correlation between a
15 concept like that and the need to correct some of the concerns
16 that we have now seen at the graduate level.

17 I think their efforts, efforts like anything from
18 special mailings to targeted school visits, to things -- the
19 admissions -- I think underlying the -- what I would call the
20 new era that we are living in, in terms of how to maintain
21 diversity, is not standing for a lazy admissions office. I
22 mean, both in terms of the way in which they evaluate
23 applications, and the way in which they encourage qualified
24 students to apply.

25 And resources need to be applied to that, and we
26 as Regents have to hold the administration accountable for the
27 efforts that they're making to make that happen.

28 SENATOR HUGHES: How do you plan on personally

1 holding them accountable? Are you going to wait for a special
2 hearing, or special subject matter on the agenda about this
3 issue? What do you plan on doing in this year of 1997 to see
4 that 1998 looks a little different?

5 MR. PARSKY: Well, first, if you'll confirm me, I
6 will be able to do something.

7 But that aside, I think in this area there is a
8 sincere commitment on the part of the Regents, all of the
9 Regents, to take steps that will maintain a diverse student
10 body.

11 In order to give that meaning regularly, we,
12 either on an individual basis or on a body basis, need to
13 continue to ask what is happening.

14 We will get statistics, annually we will get
15 statistics. But I don't think that we will get any resistance
16 from the administration in terms of them coming forward and
17 saying, "This is what we are doing; this is what the admissions
18 office is doing."

19 And I think it is important to take a measured
20 approach to this statistical information that is coming, but not
21 sit back and wait until we're five or six years into this, and
22 we're locked into a student body that is not diverse.

23 SENATOR HUGHES: Thank you.

24 CHAIRMAN LOCKYER: Between 1968, that is,
25 completing work at Virginia Law School, and '74, which is
26 working in the Treasury Department, where were you? What were
27 you doing?

28 MR. PARSKY: When I graduated from the University

1 of Virginia Law School, I was a lawyer as an associate in the
2 law firm Mudge, Rose, Guthrie and Alexander in New York, and I
3 worked there for three-and-a-half years.

4 And then a former professor from the University
5 of Virginia Law School, where I went to law school, was
6 Assistant Secretary for Tax Policy in the Treasury Department,
7 and he asked me to come work as his assistant at the end of
8 1971. His name was Edwin Cohen, and that was to be one
9 year. And one year turned into a number, as I assumed several
10 different positions within the Treasury, all from, I think, it
11 was October of 1971 until 1977.

12 In '74, I was confirmed as Assistant Secretary of
13 the Treasury.

14 SENATOR HUGHES: On that, I just want to make an
15 editorial comment.

16 You were a perfect example of how Caucasians have
17 the privilege of networking with one another, that your
18 professor then had a chance to ask you to hire, and that's the
19 thing that ethnic minorities don't have an opportunity to do,

20 So it's a wonderful thing that happened to you.

21 MR. PARSKY: I agree.

22 SENATOR HUGHES: You knew someone, who knew
23 someone, who knew what was available, and you got there.

24 MR. PARSKY: Well, I would go beyond that. I
25 think that the direct relationship between my educational
26 experience, this was a former professor of mine, that brought me
27 into a whole different environment. So, I agree with you.

28 And I do feel very fortunate. And I would like

1 to do which I can to encourage this to happen to many others.

2 SENATOR HUGHES: Thank you.

3 CHAIRMAN LOCKYER: On behalf of my conservative
4 colleagues that aren't here, I want to ask about the presence of
5 the Trilateral Commission on your resume. Why don't you tell us
6 about that?

7 MR. PARSKY: Well when I left the Treasury
8 Department in 1977, I was invited to be a member of the
9 Trilateral Commission.

10 CHAIRMAN LOCKYER: Who invites you? How does
11 that work?

12 MR. PARSKY: There is -- at least then, I don't
13 know now -- there was a nominating committee of which, at that
14 point, I believe, David Rockefeller was the chairman. And I had
15 met and had some dealings with Mr. Rockefeller when I was in the
16 Treasury Department and he got to know me. And he called me and
17 said, "Would you like to come on to this group?"

18 And it didn't have the kind of notoriety it has
19 today, but it wouldn't have made any difference to me if I
20 thought it was an interesting group, and that I thought I could
21 learn something from and potentially contribute to, I would have
22 joined.

23 And I think I was a member of that commission for
24 three years, and I think it's three years the new --

25 CHAIRMAN LOCKYER: Did you learn something?

26 MR. PARSKY: A little; a little.

27 I think that there is a -- there is a real
28 interest in international economic relations centered in New

1 York. I think with the Council on Foreign Relations, in part
2 with the Trilateral Commission, with a number of others, there
3 is a sincere interest in international economics. So, I think
4 there is some benefit there, and I think I did learn some things
5 there.

6 CHAIRMAN LOCKYER: You were an English major,
7 though, as an undergraduate?

8 MR. PARSKY: Yes, and I taught school for a year.

9 CHAIRMAN LOCKYER: When was that?

10 MR. PARSKY: That was before I went to law
11 school. I taught English, and almost went to graduate school in
12 English.

13 CHAIRMAN LOCKYER: Where did you teach?

14 MR. PARSKY: Suffield Academy in Connecticut,
15 high school.

16 CHAIRMAN LOCKYER: Any particular emphasis in
17 English lit?

18 MR. PARSKY: It was really more 20th Century
19 literature, but there were a number of different books that I
20 enjoyed.

21 CHAIRMAN LOCKYER: Do you have a favorite? This
22 goes to the who am I segment.

23 MR. PARSKY: Yes, I gathered; I gathered.

24 I enjoyed Moby Dick. One little incident I
25 thought was particularly -- I've kind of carried with me.
26 There's an incident on the boat of a man that is weaving a mat,
27 and there are a lot of different ways. There's a horizontal
28 pattern, there's a vertical pattern, and there's a diagonal

1 pattern.

2 There are a lot of ways in which you can
3 interpret what those patterns mean, but one way that I endorsed
4 for my students was that the horizontal pattern represents what
5 you are born with, your heredity. The vertical pattern
6 represents experience, what your environment kind of teaches you
7 and the experience. And the diagonal pattern represents chance,
8 over which you have no control, but which, like a bolt of
9 lightning, can come throughout your experience. And it's a
10 relative combination of those three factors that kind of make
11 you, if you, will what you are.

12 And, in any event, that's kind of a long one
13 there, but I enjoyed that.

14 CHAIRMAN LOCKYER: I read Tarot cards that way.

15 If you had to define the mission of the
16 University singularly -- that is, not to say, well, gee, there's
17 five or six different things we do -- you've mentioned research
18 on a number of occasions as significant to you.

19 Maybe there are choices, like transmission of
20 knowledge and values, or preparing students for the 21st Century
21 might be a different notion.

22 You're too quick a lawyer. You're going to tell
23 me that these are all the same, probably.

24 Is there any sort of mission statement that
25 strikes you as basic and fundamental?

26 MR. PARSKY: Well, I think the University, the
27 public nature of this University is particularly telling to me.
28 The research aspect of it is as well, and its involvement in our

1 state. Those three things are of particular telling importance
2 to this University, and separated really, the combination -- the
3 combination of those three things, separated from many others.

4 Some are public universities, some are research
5 oriented, and others have some impact on their state, but I
6 don't think quite in combination.

7 CHAIRMAN LOCKYER: Mr. Parsky, you have what I
8 think would be fair to describe as sort of a Brahman personal
9 history. You went to a prep school, and you didn't have the
10 striped tie today, but I was sort of expecting it. And, you
11 know, private college, and on the board. There's a lot. And
12 the nature of your law practice. You obviously have been
13 enormously successful, and from everything I can see, you
14 deserve to be.

15 MR. PARSKY: Thank you.

16 CHAIRMAN LOCKYER: You've commented you've been
17 struck by the sort of public role and responsibility of being a
18 UC Regent.

19 How does that sort of populist responsibility
20 square with the more aristocratic background that you've had?

21 MR. PARSKY: I was not born an aristocrat. I
22 came from a middle-class family. My parents worked. My father
23 grew up in a household where there were four brothers, through
24 the Depression. Three worked so one could go to college, and
25 the one became a lawyer and a judge.

26 CHAIRMAN LOCKYER: Was that him?

27 MR. PARSKY: No, the other brother.

28 My father worked so I could go to school. And

1 education was the number one priority.

2 And my whole life, I have been reminded of the
3 importance of giving back to a community that has been good to
4 you. And that, in a very brief nutshell, is why I'm interested
5 in doing this, without any frills about it. It is not a title.
6 It has nothing to do with power or authority.

7 It's a sincere desire from someone that has been
8 fortunate. And yes, I have experienced parts of our society
9 that are privileged.

10 But I think the best way one can grow from that
11 privilege is to then look at ways in which you can improve your
12 environment and your community. That's the way I think.

13 CHAIRMAN LOCKYER: You're right. I agree. And
14 that's how I see you.

15 MR. PARSKY: Thank you.

16 CHAIRMAN LOCKYER: There's some question about
17 lawsuits, and I want to get it on the record. Colleagues have
18 asked, are there legal matters that we should know about with
19 respect to current and former business partners that might have
20 induced complaints to the Bar, or anything else that you want to
21 make sure to explain to us?

22 MR. PARSKY: No. I think it's a matter of public
23 record that in the late '80s, there were some business dealings
24 that I had with a former colleague of mine from the Treasury
25 Department. All matters relating to that were resolved in
26 1992. There's -- all matters between him and me have been
27 resolved.

28 I don't think there's any matter that I would

1 raise that should cause any concern at all.

2 CHAIRMAN LOCKYER: You just recently had to or
3 participated in selecting a Chancellor. Tell us a little about
4 that.

5 What seemed to be special about the choice you
6 made? I assume there were lots of very well qualified people
7 you were looking at. What made the difference?

8 MR. PARSKY: Well, first, it was a difficult
9 position to fill, because Chancellor Young was such a symbol, if
10 you will, of UCLA. He had done so much and served so long, that
11 filling his shoes, I think, was very difficult.

12 There were a number of candidates that I believed
13 were very well qualified, some from within UCLA and some
14 outside.

15 I think it was unfortunate in one sense. It was
16 difficult to select people from within, because -- in part
17 because of his long standing. So, one of the factors that I
18 thought was important was trying to attract a person of
19 educational stature that appreciated where UCLA had come, but
20 saw areas that it could still improve.

21 And in part, we needed someone who the community
22 in Los Angeles and the state as a whole would say, oh, this is a
23 man of stature. If he will now come to this position, that's a
24 very positive thing for UCLA. So, that was a factor in it
25 among, as I said, a variety of others.

26 I also think that the process I was quite
27 impressed with. I thought that President Atkinson did an
28 extremely good job at allowing various points of view to be

1 heard on the process. And after all, his recommendation was
2 particularly critical in the process. The Regents had a
3 responsibility, obviously, to approve, but President Atkinson
4 was the point person, if you will, in that process.

5 And I was very proud of the fact that we were
6 able to attract Al Connersill, someone who, I think, does carry
7 educational stature, a very excellent background, an ability, I
8 think, to deal with the community, an ability to deal with the
9 fundraising campaign that UCLA will embark on, which I think is
10 an important element.

11 So, all in all, I was quite impressed with us.
12 That was first committee, other than the Board, that I served
13 on.

14 CHAIRMAN LOCKYER: Other questions from Members?

15 I had one. Mr. Preuss, I wanted to ask you about
16 the year 2000 problem when we have a moment here to conclude
17 this. That's only because the Leg. Counsel just sent me a note
18 asking for three-and-a-half million up to accommodate our
19 systems.

20 I can't imagine it costs that amount, but you're
21 going to be our expert on this.

22 Were there others?

23 [Thereupon there was discussion
24 among the Members off the record.]

25 CHAIRMAN LOCKYER: I've suggested to my
26 colleagues, surprising myself, frankly, that we ought to vote on
27 this, these two confirmations today.

28 SENATOR HUGHES: I so move.

1 CHAIRMAN LOCKYER: I've asked the Sergeant to let
2 Senators Brulte and Lewis know. And I suppose they can, if
3 they're available, add on or show up when it's appropriate.

4 But my colleagues seem to concur. I would just
5 say to both of you, in the three-and-a-half years that I've
6 watched gubernatorial confirmations, I haven't seen any two
7 finer individuals be offered for confirmation. You deserve our
8 respect and confirmation.

9 Senator Hughes makes that motion with respect to
10 Mr. Parsky.

11 Do you want to call the roll, please.

12 SECRETARY WEBB: Senator Ayala.

13 SECRETARY WEBB: Senator Ayala.

14 SENATOR AYALA: Aye.

15 SECRETARY WEBB: Ayala Aye. Senator Brulte.
16 Senator Hughes.

17 SENATOR HUGHES: Aye.

18 SECRETARY WEBB: Hughes Aye. Senator Lewis.
19 Senator Lockyer.

20 CHAIRMAN LOCKYER: Aye.

21 SECRETARY WEBB: Lockyer Aye.

22 CHAIRMAN LOCKYER: We'll leave the roll open for
23 them.

24 Thank you.

25 MR. PARSKY: Thank you very much.

26 SENATOR AYALA: Move.

27 CHAIRMAN LOCKYER: Motion by Senator Ayala for
28 Mr. Preuss. If you'll call the roll.

1 SENATOR AYALA: Aye.

2 SECRETARY WEBB: Ayala Aye. Senator Brulte.
3 Senator Hughes.

4 SENATOR HUGHES: Aye.

5 SECRETARY WEBB: Hughes Aye. Senator Lewis.
6 Senator Lockyer.

7 CHAIRMAN LOCKYER: Aye.

8 SECRETARY WEBB: Lockyer Aye.

9 [Thereafter, Senators Brulte
10 and Lewis voted Aye, making
11 the final vote 5-0 for
12 confirmation.]

13 CHAIRMAN LOCKYER: Gentlemen, we wish you well
14 and feel that the University is in good hands.

15 When we cast these votes, it's really a vote that
16 runs long past our tenure, because you'll be there in 2008.
17 There'll be three different Governors, probably, between now and
18 the time you might leave the Board.

19 Give us your best, and thank you.

20 MR. PARSKY: Thank you very much.

21 [Thereupon, this portion of the
22 Senate Rules Committee hearing was
23 terminated at approximately 11:23 A.M.]

24 --ooOoo--

25

26

27

28


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of June, 1997.


EVELYN J. MIZAK
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SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ALSO PRESENT

TIRSO DEL JUNCO, Member
Board of Regents
University of California

ROY T. BROPHY, Member
Board of Regents
University of California

VELMA MONTOYA, Member
Board of Regents
University of California

TOM SAYLES, Member
Board of Regents
University of California

SALVADOR RIVERA
Jobs for Progress, Inc.

MARY G. HIGGINS, President
Clerical Local
University of California at San Francisco
AFSCME

WILLIE L. PELOTE
AFSCME

1 KIT COSTELLO, President
California Nurses Association

2 RALPH CARMONA, Former Member
3 Board of Regents
University of California

4 RICHARD RUSSELL, Member
5 Board of Regents
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6 DON NICODEMOS, Legislative Representative
7 University Professional and Technical Employees

8 EMANUEL SFERIOS

9 JOSEPH JARAMILLO
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University of California

12 ROSE BORGERSEN, Chair
13 Peace and Justice Committee
Berkeley Gray Panthers

14 JEAN BERNARDI
15 Committee to Minimize Toxic Waste

16 JONATHAN M. SANCHEZ, Publisher
Eastern Group

17 MARIO RODRIGUEZ
18 LULAC Council 2872

19 RAFEL SANCHEZ, Legislative Chairman
California Hispanic Chambers of Commerce

20 NANCY DELANEY
21 Committee for a Responsible University

22 GERALD L. PARSKY, Member
Board of Regents
23 University of California

24 PETER G. PREUSS, Member
Board of Regents
25 University of California

26 HAYDEN PERRY
Gray Panthers
27
28

1 ALICE GONZALES, Member
2 Board of Regents
3 University of California

4 COLEEN SABATINI, Alumna
5 University of California at San Diego
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: We have confirmation discussions to begin today for three Regents of the University system.

I believe Dr. del Junco is first. If you'll come on up, sir.

We normally permit, it's your option, it looks like you have a statement to start with.

DR. DEL JUNCO: If you please, Senator.

My name is Tirso del Junco, T-i-r-s-o d-e-l capital J-u-n-c-o, making it easier.

Senators, it is an honor for me to come before you today to ask for the privilege of reappointment as Regent of the University of California.

Although I have been present at several confirmation hearings, both here in California and in Washington, D.C., somehow they never get boring to me. Of course, I wouldn't entirely mind a nice, boring confirmation hearing once in a while.

Let me first tell you a little bit about myself. I have been a doctor for the past 47 years. After graduating from Havana Medical School, I came to America, where I served my adopted country at Camp Hanford Army Hospital in Washington.

I currently practice in association with several hospitals, and I am Chairman of the Department of Surgery for the Santa Marta Hospital in East Los Angeles.

As the UC system continues to expand, and our

1 various institutions merge, I believe my skills in medicine and
2 my knowledge of the teaching of medicine will prove extremely
3 helpful.

4 I am first a surgeon, but I'm foremost a
5 volunteer. Although I have been blessed with some degree of
6 success, I have always tried to give back to the community, to
7 serve the less fortunate. As a young doctor, I made a conscious
8 decision to provide medical services for the growing population
9 of new immigrants and refugees in East Los Angeles. I never
10 turn away a patient in need of care, regardless of their ability
11 to pay.

12 In 1972, I and several minority partners opened a
13 Los Angeles bank to provide badly needed local capital
14 development to East Los Angeles. I've been a President of the
15 Hollywood Park Charity Boards, and for the last eleven years, I
16 am a member of dozens of charity and health advocacy
17 organizations.

18 I have tried to make the children of East Los
19 Angeles my children. I have sought to do the same for the
20 University of California. I am proudest of our outreach efforts
21 that have recruited countless students from diverse backgrounds
22 and differing socio-economic conditions.

23 I have recommended the formation of a Regents
24 committee to determine how the UC system can accomplish this
25 goal of diversity. Nothing is more important than continuing to
26 open our doors to all Californians.

27 But I also want all students to know from a very
28 young age what it will take to prepare for entry into our top

1 institutions. The process will not be easy, but it will be
2 fair. I hope to send a strong message to our secondary K-12
3 schools that they must prepare these young minds for like
4 competition by teaching them to learn, strive, and to excel, no
5 matter who they are and where they come from. We must, once
6 again, have confidence in the excellence of our K-12 schools.

7 With the recent Supreme Court decisions limiting
8 racial driven affirmative action of all schools, we all must
9 find new ways of increasing our outreach. We can do this
10 without discriminating against other applicants on the basis of
11 race or eroding the high standards of excellence for which the
12 UC system is known.

13 We are all of us in this together. I pledge
14 today that we will increase diversity through excellence, and
15 without denying anyone their fair chance to compete.

16 Yes, I do have strong political ideals. I cannot
17 help but have strong political ideals because I watched as Cuba,
18 my birthplace, was taken over by Fidel Castro, my former school
19 mate.

20 But I have never let politicals [sic] intrude
21 upon my medical service; that is, to the people of California,
22 or my service to the UC regents. In this regard, I believe I
23 have set an example for my fellow Regents and for all others in
24 public service. I am certain my fellow Regents will tell you
25 this today.

26 In fact, I'm extremely grateful all of the people
27 who have supported me in the past few weeks and offered their
28 testimonials. People like Regent Clark, Regent Alice Gonzales,

1 Regent Tom Sayles, and Regent Brophy, UCLA Charles Young, and
2 Lieutenant Governor Gray Davis, and many others.

3 We may not have agreed on every issue, or voted
4 the same way every time, but they want to see the confirmation
5 process kept clean of political concerns.

6 CHAIRMAN LOCKYER: I'm sorry, I missed the last
7 word, confirmation --

8 DR. DEL JUNCO: Process kept clean of political
9 concerns.

10 CHAIRMAN LOCKYER: Like the appointment process,
11 obviously.

12 DR. DEL JUNCO: I ask the honorable Senators to
13 remember the words of all my supporters. I believe to speak of
14 diversity and community while turning your back on one who has
15 lived his whole life according to those ideals will risk making
16 our young students very cynical about the political process.

17 The task before us is to make all the children of
18 California our children. In the past twelve years as Regent, I
19 have to do -- I have tried to do just that.

20 I want to finish the job my fellow Regents have
21 asked me to do when they once again voted me Chairman of the
22 Board of Regents last Friday unanimously.

23 I ask you to allow me a chance. Thank you very
24 much, Senators, for allowing me to make a statement.

25 CHAIRMAN LOCKYER: Thank you, Dr. del Junco.

26 When the officers were elected, did they elect a
27 Vice Chair? How does it work?

28 DR. DEL JUNCO: I left the room at the time of

1 the elections, but there was a slate of officers presented to
2 the --

3 CHAIRMAN LOCKYER: Nominating Committee?

4 DR. DEL JUNCO: The Nominating Committee. My
5 understanding is that everyone voted unanimously.

6 CHAIRMAN LOCKYER: What's the slate? Can you
7 tell us that?

8 DR. DEL JUNCO: I think the slate is myself
9 Chairman, Montoya Vice Chairman, and then there's a whole slate
10 of Chairman of each committee and so on, which I don't have with
11 me.

12 CHAIRMAN LOCKYER: Thank you.

13 Let's take testimony. Just stay if you wish,
14 either way. If you want to sit in the back, that's fine.

15 We'll let whomever is here, starting with the
16 support side, please come forward.

17 CHAIRMAN LOCKYER: Good afternoon.

18 MR. BROPHY: Thank you, Senators. I'm Roy
19 Brophy, and I'm a builder and developer here in Sacramento. For
20 the sake you don't know me, I'd like to tell you a little bit
21 about where my particular opinion comes from before I testify.

22 I'm the only one in the history of the state who
23 served in all the three segments of higher education. And I
24 started on the K-12 Board, and this is my 30th year of
25 continuous public service, which brings me to where we are
26 today.

27 I also was the one that opposed and led the
28 opposition with an amended resolution on SP 1 and SP 2, to turn

1 aside the affirmative action proposal by the Governor and by
2 Regent Connerly. I failed by 10-14 vote, but I'm still here to
3 testify for Regent Tirso del Junco.

4 The reason is, at this particular time, in the
5 face of what's happening, and the thing that concerns me the
6 most as Chairman of Finance is this proposal for us to merge UC
7 San Francisco and Stanford. It's a proposal that I was quoted
8 accurately in the paper by saying that Stanford needs us more
9 than we need Stanford, and that opinion is shared by Chairman
10 Tirso del Junco.

11 We need a medical doctor on this when we get into
12 these kinds of discussions. I've worked with him in the last
13 year when we settled between meetings filed lawsuits, and
14 settled lawsuits working with -- it's one of our jobs, working
15 with the counsel, the general counsel. And where it concerned
16 medical malpractice and those kinds of disputes, he was
17 invaluable. Where it concerned things in business, I'm
18 reasonably strong in those things.

19 Incidentally, I'm a constituent of yours, sir.

20 CHAIRMAN LOCKYER: Have you moved?

21 MR. BROPHY: I want to tell you this. I started
22 kindergarten in 1925 in Lincoln Grammar School in San Leandro,
23 so I am a constituent.

24 CHAIRMAN LOCKYER: Emeritus at least, whatever
25 they call those. That school closed some decades ago.

26 [Laughter.]

27 MR. BROPHY: They didn't tell me.

28 CHAIRMAN LOCKYER: So far we don't have reunions

1 for elementary school. Maybe we ought to.

2 MR. BROPHY: A partner of my father is Tommy
3 Nick, who was the former mayor. They were partners in real
4 estate there, and we lived across from the Star Factory, I think
5 it was, some horrible place.

6 But anyway, it's incredibly important that
7 because Tirso voted this way, that we not turn him down for that
8 one vote. It's something I don't agree with. I intend to keep
9 fighting against that issue. That particular fight's not over
10 until the fat man sings, and I'm the fat man. I'm going to keep
11 working to set aside this issue, SP 1 and SP 2, and also what I
12 can on 209.

13 Tirso has been a very, very good -- he's an
14 honest person. He's a person you can depend upon. He's a well
15 informed person, and I wish that you Senators would consider
16 that we do need him.

17 I stand for questions.

18 SENATOR HUGHES: Mr. Chairman.

19 I missed part of what you said. He voted against
20 what issue? The Stanford --

21 MR. BROPHY: He voted affirmative. He voted for
22 the SP 1 and SP 2. I led the opposition against it. I was the
23 one that had the amendment to put it off and to activate it
24 after we'd spent 16 months in search, and I failed by a vote of
25 -- I was on the short end of that 10-14.

26 SENATOR HUGHES: How did he vote on the UC San
27 Francisco-Stanford merger?

28 MR. BROPHY: We haven't voted yet. But his

1 discussion has been the same as mine, it's in opposition to
2 that.

3 SENATOR HUGHES: Thank you.

4 MR. BROPHY: Wait a minute, I'm sorry. We did
5 have a vote. We had a preliminary vote, but that is not -- our
6 preliminary vote was November. I, too, voted for it in
7 November, but I asked the caveat, isn't it true that this is not
8 a final vote; this is simply to start activating the process.

9 We all voted. I mean, I don't know who voted no
10 on the thing, but I know he voted and I voted yes.

11 But the final vote comes in July and in
12 September. Those are the crucial votes, and I'm voting no on
13 those two occasions.

14 SENATOR HUGHES: But the vote that he wasn't with
15 you on was what, and how did you feel?

16 MR. BROPHY: I felt he was wrong.

17 SENATOR HUGHES: The affirmative action?

18 MR. BROPHY: Yes. I thought that I spent all
19 this time, this 30 years in serving on public education boards,
20 and I really felt that -- I served on the community college and
21 CSU for 11 years, and 12 years on this. I just felt that
22 there's a better solution to the problem of diversity than
23 simply trying to pretend like it's a level playing field. It's
24 not.

25 Until we reach forward and provide educated and
26 informed executives that the people of color can look to and
27 say, it can happen, it's not going to happen. And we're going
28 to be caught in this flood of uneducated people that we have a

1 responsibility to educate.

2 SENATOR HUGHES: Thank you.

3 CHAIRMAN LOCKYER: Regent Brophy, I think you
4 made a point. I've heard this point. I've read it in
5 editorials, I've read in correspondence. So, I think it's very
6 important to respond to.

7 You made the point that he shouldn't be turned
8 down because of this one vote.

9 MR. BROPHY: Yes, sir.

10 CHAIRMAN LOCKYER: Or piece of his philosophy.

11 I agree. And no one that I've heard has
12 indicated that he should be turned down solely for that one
13 reason. There are a lot of other reasons to do it. You're
14 going to hear some of those discussed today.

15 So, anyone else that thinks that that's framing
16 the issue correctly needs to know, it's not.

17 Now, I do think personally that it was a mistake
18 for the University of California to be the first university in
19 the country to reject use of affirmative action remedies to
20 overcome discrimination. So, I agree with your comment that
21 this Board, the Regents, cannot operate this University
22 unilaterally.

23 Your Board managed to circumvent the Chancellors.
24 You managed to circumvent the faculty, and you managed to
25 circumvent the students, all of whom were unanimously opposed to
26 the Governor and Dr. del Junco's position on affirmative action.

27 This is a substantial and significant policy, and
28 I think maybe as much as the policy, the specific policy itself,

1 maybe even more significant is a willingness to disregard the
2 students, the faculty, the Chancellors, the President of the
3 University system. All of those views were pushed aside for
4 adoption of a policy that Mr. Del Junco will attempt to, I
5 guess, defend. I think it's indefensible.

6 MR. BROPHY: Senator, I was --

7 CHAIRMAN LOCKYER: But you're right. It
8 shouldn't be just based on that one thing.

9 MR. BROPHY: I stood before the public on the
10 following morning after that vote, and I was the one who stood
11 and said I want to speak as member of the public. And I said,
12 your Board did this, and your Board did that.

13 But regardless of my strong feelings on that, I
14 still have strong feelings for Chairman del Junco.

15 CHAIRMAN LOCKYER: Well, thank you, and I
16 compliment you for your continuing service to the University and
17 the state in numerous ways.

18 Senator Lewis.

19 SENATOR LEWIS: Mr. Brophy, did you take a
20 position on Prop. 209?

21 MR. BROPHY: I sure did.

22 SENATOR LEWIS: And what was your position?

23 MR. BROPHY: I voted against it. I debated
24 against it.

25 SENATOR LEWIS: So, you were in opposition
26 against the wishes of the majority of voters in the State of
27 California?

28 CHAIRMAN LOCKYER: Yeah, the 21 percent that

1 voted.

2 MR. BROPHY: Well, yes, that's true.

3 SENATOR LEWIS: We're hearing a lot about
4 consensus of ideas.

5 MR. BROPHY: I was on the side of the informed
6 voters, though, but not necessarily the majority of the voters.

7 SENATOR LEWIS: Is it true that the UC system is
8 the largest teaching hospital system in the world?

9 MR. BROPHY: I believe it is, yes, by numbers and
10 by dollars, yes.

11 SENATOR LEWIS: And is Dr. del Junco the only
12 physician that's a member of the Board of Regents right now?

13 MR. BROPHY: Yes, he is.

14 CHAIRMAN LOCKYER: Any other questions?

15 Thank you very much.

16 MR. BROPHY: Thank you.

17 CHAIRMAN LOCKYER: Next, please.

18 MS. MONTOYA: Hello, Chairman Lockyer, Senator
19 Ayala, mucho gusto, Senator Lewis, Senator Hughes, and I have
20 such pride to say Senator Brulte. You knew Jim when he was a
21 little boy.

22 [Laughter.]

23 CHAIRMAN LOCKYER: That was some time ago.

24 [Laughter.]

25 MS. MONTOYA: My name is Thelma Montoya. I am a
26 Regent of the University of California. I was here three years
27 before you all.

28 I'm here to speak for Tirso as a person. I was

1 born in East Los Angeles on Garrity Avenue. Unfortunately, this
2 street is known not for educational attainment, but for its
3 gangs. And I'm very, very grateful to people like Tirso, who
4 take of their time and their talents and give back to the
5 community.

6 I have sat in his waiting offices with the blue
7 collar members who are there to be helped by him, many of them
8 at no cost.

9 I'm here to plead with you to keep him on the
10 Board and a person, because I think he has unique talents.
11 Most of the Regents are lawyers, and we need a doctor on the
12 Board.

13 He's helping us with the merger issue, and we
14 have a lot of issues you don't hear about because they're in
15 closed session, about medical malpractice. And some of us, like
16 Roy and I, can say, well, you know, how are you fixing this.
17 But Tirso can get into the nitty-gritty of whether or not the
18 protocol at the hospital is going to prevent this from happening
19 again.

20 So, for these personal reasons, I ask you to keep
21 him on Board.

22 And I also have some friends in Washington, D.C.
23 who call him for help because he serves on the Postal Rate
24 Commission, and I can attest to you that Tirso gets things done,
25 and for everyone. He doesn't ask their politics. He just gets
26 things done when they need it.

27 I plead with you to keep him on the Board.

28 Thank you. If you have any questions, I can

1 answer them.

2 CHAIRMAN LOCKYER: Thank you, I only have one.

3 If he's voted down, do you automatically become
4 Chair?

5 MS. MONTTOYA: Absolutely not. I am the Vice
6 Chairman, but the way it works is, the Vice Chairman does not
7 ascend to Chairman. Meredith Kachigian was the Vice Chairman
8 last year, and she has no capacity of that nature.

9 An election would have to be held, and the whole
10 hierarchy would have to be reconstituted.

11 CHAIRMAN LOCKYER: They'd have a new election?

12 MS. MONTTOYA: That's correct.

13 CHAIRMAN LOCKYER: Thank you.

14 MS. MONTTOYA: Thank you.

15 CHAIRMAN LOCKYER: Other comment?

16 MR. SAYLES: Good afternoon, Senators. My name
17 is Tom Sayles. I'm a Senior Vice President with Pacific
18 Enterprises in Los Angeles.

19 I've had the pleasure of coming before this
20 august body on four occasions. I've been confirmed four times
21 in less than eight years, starting with the community colleges,
22 then the Commissioner of Corporations, Secretary of Business,
23 Transportation and Housing, and most recently as a Member of the
24 Board of Regents.

25 You might ask why am I here? I know Senator
26 Lockyer dealt with the issue, but I think it's worth repeating.

27 Those of you who know me, know that I am an
28 absolute supporter of affirmative action. And I voted with

1 Regent Brophy; voted against SP 1 and 2, and I voted against
2 209. I continue to believe that we made a mistake and that
3 decision was wrong.

4 But I think we have to think about why people
5 voted the way they voted. I think those votes were based on our
6 experience, our personal beliefs, and even our own moral
7 compasses, and different people can differ on those views
8 because of their different experiences.

9 In the case of Regent del Junco, we disagree on
10 that one issue. And I was not surprised to hear Senator Lockyer
11 say that it is not just about that issue.

12 What I want to talk about is that we agree on a
13 lot more than we disagree. Even in the area of affirmative
14 action, there are things we agree on. He and I have had long
15 discussions about the importance of increasing the eligibility
16 pool of minority students. That's the way to get at the heart
17 of the program. Regent del Junco supports that.

18 CHAIRMAN LOCKYER: What is the "that"?

19 MR. SAYLES: Increasing the pool.

20 CHAIRMAN LOCKYER: How do you do that?

21 MR. SAYLES: Well, I think we start with the
22 elementary schools. And I think there's no one solution to it,
23 but I think it's at the heart of the problem. You have a pool
24 of three percent.

25 CHAIRMAN LOCKYER: So, we can miss two
26 generations, in effect, by starting at elementary schools?

27 MR. SAYLES: We can argue that we're missing the
28 two generations now because the eligibility pool is three

1 percent today, Senator.

2 More importantly, I think --

3 CHAIRMAN LOCKYER: We would freeze out the three
4 percent and start over again at five year olds. That was what
5 you're suggesting.

6 MR. SAYLES: No, I'm not.

7 CHAIRMAN LOCKYER: I understand that's Fidel's
8 policy.

9 MR. SAYLES: I said that is one thing we could
10 do, is to try to expand the pool. There are a multitude of
11 other things we think we need to do, too.

12 CHAIRMAN LOCKYER: All right.

13 MR. SAYLES: It seems to me that when you come
14 before this Board, with all due respect, people come because
15 they want to serve. There are three things they ought to be
16 judged on in fairness. One is their competency; two is their
17 commitment; and third is their integrity.

18 There is no doubt in my mind that Regent del
19 Junco will pass all of those qualifications with flying colors.
20 He is clearly a competent Regent, and as a rookie to that group,
21 I've seen how knowledgeable he is.

22 He is extremely -- he has a very great
23 understanding of the UC system, something that takes a while for
24 people to learn. As Regent Montoya indicated, he's particularly
25 helpful to those of us on the Board of Regents in the area of
26 health care.

27 You know, we are facing very, very significant
28 issues in that area.

1 Secondly, his commitment is without question. He
2 works as hard or harder than most Regents. He spend endless and
3 countless hours attending to Regents business.

4 Lastly, in my view, most importantly, he is a man
5 of unquestionable integrity. We may disagree, and I do disagree
6 with him, but think he votes his conscience, and he does what he
7 thinks is right under the circumstances.

8 So, I come before you asking you to confirm this
9 honest, hard working man, someone who in many ways embodies the
10 goodness of this country. And it seems to me that it would be a
11 tremendous loss to the people of California if he were not
12 confirmed.

13 Thank you.

14 CHAIRMAN LOCKYER: Thank you.

15 Any questions? Next commentor, please.

16 MR. RIVERA: Thank you, Mr. Chairman. My name
17 is Salvador Rivera. I reside in Alta Loma, California.

18 I am here today is to ask for the confirmation of
19 Dr. del Junco on behalf of several people, including myself,
20 that could not be here today inasmuch as we are currently right
21 in the middle of our 68th National Convention in Anaheim,
22 California.

23 The good wishes of the Vice President of the Far
24 West, Mr. Jose Pacheco, and the President of the Richmond
25 Council, Mr. Richard Arthur, are with me today. They wished for
26 me to express these good wishes to you, and to ask you that you
27 consider the record of this individual as a human being and as a
28 life-long server of the public in the East Los Angeles area, and

1 humanity in general.

2 Dr. del Junco has devoted his life for working
3 for those that are most underprivileged. There are several
4 issues that have come across where he has taken some positions
5 that possibly some people don't agree with. I happen to agree
6 with some of those positions. I happen to agree and believe
7 that the individual in character must be the one that prevails.

8 We have children in schools that aren't learning
9 today. There's no way they're going to make it to the
10 University system. The largest teen pregnancy problem in the
11 United States are the Hispanic youth in East Los Angeles. These
12 people will never make it to the University system.

13 People like Dr. del Junco are the only
14 opportunity that many of these people are going to have for a
15 true service.

16 So, yes, there are issues, and they are
17 controversial, and they are important. And I don't deny that.

18 But I also ask you not to deny a life of service
19 that this man has presented.

20 We have looked at -- my boss in LULAC, Mr. Jose
21 Pacheco, asked me to look at this. We have endorsements from
22 attorneys, private citizens, contractors, businessmen, Board of
23 Regents, individual people. We have -- my boss said to me very
24 clearly, he said, you must go down there. You must talk to the
25 Senate. You must talk to these individuals. Urge them to
26 please, please do not deny this individual. Recognize his
27 life-long dedication to the service of the community.

28 We will be doing a tremendous disservice to the

1 people of California if you deny this man confirmation.

2 We ask you with all possible ardor that you do
3 confirm this individual, Dr. del Junco.

4 Thank you, sir. I'll answer questions.

5 SENATOR AYALA: May I inquire as to the
6 gentleman's name, and what is your position?

7 MR. RIVERA: Salvador Rivera.

8 My position in LULAC, or my position as a private
9 citizen?

10 SENATOR AYALA: Whom are you representing here
11 this afternoon?

12 MR. RIVERA: I am representing myself and Mr.
13 Jose Pacheco, the Vice President of the Far West of the League
14 of United Latin American Citizens.

15 SENATOR AYALA: Thank you.

16 CHAIRMAN LOCKYER: Other questions? Thank you,
17 sir.

18 Who's next, please? Any other support
19 commentary? We've got two chairs if someone else wants to come
20 up.

21 MS. HIGGINS: My name is Mary Higgins, and I'm
22 President of the Clerical Local at UC San Francisco. That's the
23 AFSCME.

24 I want to make it clear, I expected Willie to be
25 here. Willie's not here, so I think I'm speaking for it with a
26 qualification that Dr. del Junco vote against the merger.

27 I was very encouraged. I've been to almost every
28 Regent meeting for last year. Dr. Del Junco, along with Regent

1 Clark and Brophy are pretty much the watch dogs of the money in
2 terms of the auditing, and bringing in auditors, that sort of
3 thing. So, he does play a real role in that sense.

4 And I know that they have had discussions about
5 watching the problem of the under-represented in terms of the
6 professional schools. There's been a great deal of discussion
7 about that.

8 I just want to say that I represent this AFSCME
9 local. I'm speaking for the AFSCME local. There's 600 of us
10 that will be dramatically affected. We are very upset by the
11 whole -- I think you have a letter there of taking of public
12 assets of a public institution of this magnitude, and taking it
13 out and putting it in the private sector.

14 So, if he is opposed to that, I came back
15 Thursday somewhat very heartened, and I met with our Executive
16 Board. We took this position, and that's why I'm speaking now.

17 CHAIRMAN LOCKYER: All right.

18 Willie, did you want to add something?

19 SENATOR BRULTE: I have a question.

20 CHAIRMAN LOCKYER: I don't know that his position
21 is publicly pro or con yet.

22 MS. HIGGINS: We would support the con -- my
23 board took the position that we would support the nomination if
24 he was opposed to the merger.

25 CHAIRMAN LOCKYER: Understands that we cannot
26 condition a confirmation on any prospective action.

27 MS. HIGGINS: I understand that.

28 CHAIRMAN LOCKYER: That may be your view, and he

1 can comment as to his views.

2 SENATOR BRULTE: Is that the only issue you care
3 about?

4 MS. HIGGINS: It's the only issue that I'm
5 qualified to come and make a presentation on. It's the only
6 issue that I took to my executive board.

7 The executive board at the local took a position
8 against 209, but we didn't discuss it relative to this, no.

9 SENATOR BRULTE: So, your organization would
10 support or oppose the confirmation of Regents based on this
11 singular issue?

12 MS. HIGGINS: Yes, it's very opportunist, that's
13 for sure.

14 SENATOR BRULTE: Thank you.

15 CHAIRMAN LOCKYER: Mr. Pelote, did you want to
16 add anything?

17 MR. PELOTE: Mr. Chairman, Willie Pelote,
18 representing the American Federation of State, County, and
19 Municipal Employees.

20 Based on the letter that we've drafted and sent
21 to you, we are in opposition to the confirmation of Mr. del
22 Junco.

23 And if there are any questions based on our
24 letters, I'm prepared to answer those questions.

25 SENATOR HUGHES: Who represents AFSCME?

26 MS. HIGGINS: Willie does.

27 SENATOR HUGHES: What is your name?

28 MS. HIGGINS: My name's Mary Higgins. I'm

1 President of the Clerical Local, AFSCME Clerical Local at UC San
2 Francisco.

3 SENATOR HUGHES: So, you're Clerical Local --

4 MS. HIGGINS: Of AFSCME, yes.

5 SENATOR HUGHES: -- is supportive of him if he
6 will do thus and so?

7 MS. HIGGINS: Our executive board took that
8 position, yes.

9 I mean, if it's inappropriate in terms of how
10 this is coming out, I apologize. It's just that we've been so
11 desperate to stop this thing.

12 SENATOR HUGHES: I'm just trying to understand
13 two of you here representing --

14 MR. PELOTE: Senator Hughes --

15 SENATOR HUGHES: He speaks for the organization,
16 but you speak for a local.

17 MR. PELOTE: Senator Hughes, her position is
18 consistent with mine, and is in opposition to the nominee for
19 his confirmation.

20 SENATOR HUGHES: That's not what she just said.

21 MR. PELOTE: Her local position is consistent
22 with my position, as I represent AFSCME.

23 SENATOR HUGHES: Would you make your position
24 clear?

25 MS. HIGGINS: Yes, I think that you have a letter
26 there. You probably have a letter there which is --

27 SENATOR HUGHES: I have a letter from Mr. Pelote,
28 not from you.

1 Do you have a letter so we can make it part of
2 the record, too, so that we show one local with a position, and
3 your political director with another position?

4 I'm just trying to clear the record.

5 MS. HIGGINS: It says, "We support the
6 confirmation of the nomination on the condition that they
7 verbally go on record opposing the merger of UC San Francisco
8 and Stanford."

9 SENATOR HUGHES: You support him on something he
10 hasn't done yet.

11 MS. HIGGINS: It's the most important as a
12 Regent, in my local's estimation. In my local's estimation,
13 we're just trying to do the best we can to represent our local.

14 And that's what I did. I didn't know that the
15 pros and the cons come one or the other. I don't know if I'm
16 pro or con. If he's against the merger, I'm pro. If he's not,
17 I'm against.

18 SENATOR HUGHES: But he doesn't have a chance to
19 vote at this moment in time, when you are here supporting him if
20 he does something.

21 MS. HIGGINS: That's right.

22 SENATOR HUGHES: If we are all good, I guess we'd
23 go to Heaven, but, you know, good is in the eyes of the
24 beholder.

25 MS. HIGGINS: Well, he's very -- I mean, as a
26 Regent, he's very aggressive as a Regent. But for the
27 affirmative action, he's one of the better Regents.

28 I've been to every Regent -- no, in terms of the

1 watch dogging of the auditors, bringing the auditors in, looking
2 at the auditors, he stopped the San Diego contracting out of the
3 pediatric beds in the May meeting until there was a guarantee
4 that general counsel would look at the contract and that
5 everything was in order.

6 SENATOR HUGHES: Thank you.

7 Now, let's hear from the political and
8 legislative director of AFSCME.

9 MR. PELOTE: This local that Mary Higgins would
10 represent is -- she is a part of Council 57. Joyce Parpiack is
11 the Executive Director. Joyce Parpiack and I had a
12 conversation. From that, you have received a letter for the
13 official position of AFSCME.

14 The local has -- if they'd like to take a
15 position that's fine, but its position has got to be consistent
16 with their council. Their council is in opposition to the
17 nominee.

18 SENATOR HUGHES: So, they are in opposition?

19 MR. PELOTE: That's correct.

20 SENATOR HUGHES: As a member, she --

21 MR. PELOTE: She has the right.

22 And I told Ms. Higgins earlier in my office that
23 she should be consistent with the position that we are taking,
24 and I think she clearly understands that now.

25 At this point, I think AFSCME can clearly say
26 we're in opposition to the confirmation of Mr. Junco.

27 SENATOR LEWIS: Did I hear you correctly? Were
28 you speaking on behalf of your local board?

1 MS. HIGGINS: Yes.

2 SENATOR LEWIS: Thank you.

3 SENATOR HUGHES: But that it is one local out of
4 how many in the organization?

5 MR. PELOTE: We represent around 50,000 members
6 statewide. Out of the Council 57, you're talking about 45
7 locals which makes up that council. She is part of that
8 council. The Council's official position is to be in opposition
9 to this confirmation of Mr. Junco.

10 MS. HIGGINS: I also called Willie on Friday, and
11 he said, this is how you do it.

12 MR. PELOTE: This is a totally inappropriate
13 place to discuss it, Mary. We will clearly deal with that at
14 the appropriate time and the appropriate meeting.

15 We are now in opposition.

16 SENATOR HUGHES: I don't want to start a fight.
17 I just want the record to show that one local is opposed.

18 MS. HIGGINS: 600 members; 600 of the Clericals
19 at UC San Francisco will be affected by this merger. Many of
20 them will lose their retirement. They're going to lose their --

21 SENATOR HUGHES: We're not talking about the
22 merger.

23 CHAIRMAN LOCKYER: The issue is not before us.

24 The only thing I can suggest is, and it's not a
25 recommendation, or a policy preference, or anything else, purely
26 a prediction. The merger's going to occur. So, you ought to
27 prepare for that, in my view. And that's regardless of what we
28 do with respect to this particular confirmation.

1 SENATOR BRULTE: Question.

2 MR. PELOTE: And may I apologize for the
3 confusion.

4 SENATOR HUGHES: No, I'm just trying get the
5 record straight.

6 CHAIRMAN LOCKYER: We get it. There's a local
7 that has different views than the regional and statewide
8 organization, and that's not unusual. The log cabin Republicans
9 in Long Beach have a different view about certain issues than do
10 the Republican organizations otherwise.

11 Did you want to continue?

12 SENATOR BRULTE: I don't want to interrupt if he
13 hasn't finished. I have a question, though, when you're
14 finished.

15 MR. PELOTE: Go right ahead, Mr. Brulte.

16 SENATOR BRULTE: How many Regents meetings have
17 you been to?

18 MR. PELOTE: I don't attend those, Mr. Brulte. I
19 leave that up to the executive director, Joyce Parpiack, who
20 represents us in everything at those meetings.

21 SENATOR BRULTE: How many?

22 MS. HIGGINS: I've probably been 14 now. I'm
23 sort of a Regent groupie almost.

24 CHAIRMAN LOCKYER: You may have attended more
25 than Mr. Del Junco does.

26 MS. HIGGINS: No, that's unfair. No, I haven't.

27 CHAIRMAN LOCKYER: No, it's not. He catches
28 about 50 percent.

1 MS. HIGGINS: He's been at every one I've been
2 at.

3 CHAIRMAN LOCKYER: The last year he's been very
4 good, pending confirmation. But if you'll look at the record
5 going back to 1985, it's not so good. We'll talk about that
6 when we get to it.

7 You don't have to attend his attendance record,
8 ma'am.

9 Any other questions from Members?

10 Thank you.

11 MR. PELOTE: Thank you.

12 CHAIRMAN LOCKYER: Other commentary? Anyone
13 else?

14 MS. COSTELLO: My name is Kit Costello. I am
15 President of the California Nurses Association. On behalf of
16 our members, I appreciate the opportunity to testify before you
17 today.

18 We represent 25,000 registered nurses in the
19 state, and over 3,000 of these are registered nurses employed at
20 UC medical centers and campus health centers.

21 Regrettably, the CNA must oppose the confirmation
22 of Dr. Tirso del Junco. And the reason being is specifically, I
23 realize that the UCSF-Stanford merger is not the defining issue
24 in this confirmation, but we believe that it's pivotal.

25 For the record, Dr. del Junco did vote
26 affirmatively in favor of the merger in November of this year.
27 And I think it's not a minor difference of opinion among the
28 Regents, because actually what we're talking about is really the

1 transfer of public assets that value over half a billion dollars
2 to a nonprofit private corporation.

3 These discussions have occurred in closed
4 sessions, away from public scrutiny. The Regents have refused
5 to meet and confer with the union representatives of the
6 affected employees over the decision and effects of such a
7 merger, and we've raised concerns about effects on patients and
8 the communities, as well as the jobs and the pensions of the
9 nurses that we represent.

10 As nurses, our concerns are grave. We believe
11 that this is possibly an interim step to turn over public assets
12 to a for-profit hospital chain. I don't think this is outside
13 the realm of possibility, as Columbia HCA is engaged discussions
14 to buy or lease the UC Irvine Medical Center. This really does
15 loom as a highly probable scenario given the health care market
16 and the loss of control of the Regents to the new governing
17 board of the merged entities.

18 The claims of urgency over the financial health
19 of UCSF are debatable, and in fact there are many
20 irregularities. Mr. Helman, who was the Regents' consultant and
21 issued the dire warning has now, curiously, appeared as a member
22 of the new board.

23 Other financial experts have appeared before the
24 Assembly and Senate to state the opinion that UCSF Medical
25 Center is financially healthy as confirmed by substantial cash
26 reserves and accounts receiveable, as well as a low debt load.

27 Many of the stakeholders are justifiably
28 concerned about the impact of the merger. Just three weeks ago,

1 the Faculty Senate of UCSF voted by a 2-1 margin in favor of
2 further inquiry and investigation of the effects of the merger
3 impact on research, education and patient care.

4 And many public officials, including Senators,
5 Assemblymen, and the County Board of Supervisors are supporting
6 bills to mandate open meetings of the new entity, the
7 controlling board. Legislative experts like former Assemblyman
8 Phil Isenberg have questioned the authority of the Regents to
9 give away public assets in this manner.

10 I do believe that it is a major issue in the
11 confirmation of Dr. del Junco. And I would like to state that
12 the issue of his expertise as medical doctor, I think, is
13 important, but this is why the UC Board of Regents has the
14 capability and the authority to retain consultants to assist
15 them in making those decisions. I don't think that should be a
16 sole issue in his confirmation.

17 So, I thank you for the opportunity to issue our
18 objection before you today, and I urge you to use your
19 obligation to not confirm this candidate.

20 Thank you.

21 CHAIRMAN LOCKYER: Thank you very much.

22 Other opposition would be fine at this point.

23 MR. CARMONA: Mr. Chairman Lockyer, Members of
24 the Rules Committee, my name is Ralph Carmona, and to my left is
25 Mr. Richard Russell.

26 We come to you today as former alumni members of
27 the UC Board of Regents. We come to urge your support for
28 Regents Parsky and Preuss, who will come shortly thereafter, but

1 with some concerns about Dr. del Junco with respect to his role
2 involving the University's public mission as a land grant
3 institution and its shared governing process.

4 We come as two who have received highest degrees
5 of academic distinction, a Ph.D. and a J.D. We come as two who
6 presently serve as members on UC alumni boards at UC Santa
7 Barbara in my case, and UC Berkeley in the case of Mr. Russell.

8 Finally, we come as two who would not be here
9 today were it not for affirmative action.

10 Let me begin my statement by telling you that I
11 believe Dr. del Junco to be an honorable man of good character.
12 He is without any question one who has responded in a particular
13 sense to the medical needs of Latinos in the east side of Los
14 Angeles.

15 This is why, and Tirso, you may not remember
16 this, I was instrumental as a board member for the Pasadena
17 Junior Chamber of Commerce organization in having you honored at
18 its annual dinner.

19 So, I come to this Committee with some real mixed
20 feelings, but I come knowing that this is a very critical
21 decision for the Senate. UCLA Chancellor Charles Young, in
22 fact, who strongly disagrees with Dr. del Junco on a number of
23 major issues, believes that the Senate would be wise to confirm
24 him in order to avoid any further politicization of the
25 University.

26 For me, such a position reflects a University
27 view that would deny this body its Constitutional obligation on
28 such a crucial matter. After all, we're talking about a lengthy

1 12-year Regent term for the most part, people who are appointed
2 to ensure an independence of judgment, and to best prepare them
3 to deal with the complexities crucial to the University's public
4 mission and its shared governing process.

5 I have received three degrees in a discipline
6 involving the study of politics, and I am the former chief
7 lobbyist for Bank of America, an institution I was proud to
8 affiliate myself with for almost a half a generation.

9 So, it is with that background that, when I
10 became Regent, I was quite surprised at Dr. del Junco's rather
11 cursory approach to controversial issues facing nine UC
12 campuses. Issues like affirmative action, selection of the
13 University's President, the UC San Francisco and Stanford
14 hospital merger, and student fees.

15 Obviously, the most controversial of these issues
16 is that of affirmative action. I didn't go -- I didn't know
17 Senator Brulte as a youngster, but I went to high school with
18 Senator Polanco and attended Garfield High School on the east
19 side of Los Angeles, where I was an auto mechanics major, had a
20 3.0 GPA, low test scores, insufficient college requirements, in
21 a school with a 62 percent dropout rate. Obviously, affirmative
22 action made it possible for me attend the University of Southern
23 California.

24 With those three degrees behind me, I suppose it
25 would be easy for me to attribute my academic success to some
26 kind of color-blind individualism, but I believe that my
27 accomplishments speak to a much broader social question. In
28 other words, I believe that what's happening presently at the

1 University begs for a very serious dialogue on this most painful
2 subject, because the harsh reality is that any future outreach
3 effort to Ralph Carmona or to Richard Russell in the future will
4 now be a suspected form of preference or a quota.

5 Moreover, the medical needs in the East Los
6 Angeles area where Dr. del Junco serves, will face decreased
7 access to UC's medical schools. A classic example is here in
8 Sacramento, UC Davis Medical School. The most recent first year
9 enrollments show there's only one Latino student, not a single
10 black student in that first year class.

11 This school was the famous defendant in the
12 affirmative action case, Supreme Court case, the Bakke case back
13 in '73.

14 What we are witnessing is a policy seed change
15 affecting UC's integration efforts, a decision that has divided
16 the Regents themselves, created turmoil on the campuses, and has
17 results in a Chancellor leadership change on five of the nine UC
18 campuses, including the departures of UCLA's Young and UC
19 Berkeley's Chang-Lin Tien.

20 All of this is a consequence of a policy
21 supported by Dr. del Junco with only three weeks notice and no
22 formal Board review. The failure to approach this critical
23 policy of integration in a serious deliberative fashion without,
24 as the Chairman pointed out, without the input of the
25 Chancellors, the faculty, and the students is what, in large
26 part, contributed to their opposition to that policy, and is
27 what now eats at the heart of UC's governing process and its
28 public purpose.

1 Dr. del Junco has served 12 years as a Regent and
2 is now its Chairman of the Board. Aside from offering the kind
3 of generic or allegorical statements he has made about public
4 school, or form, or individual merit, I believe Dr. del Junco at
5 minimum owes this Committee some explanation as to how the
6 University will avoid a resegregation without using the
7 complicated factors of race, ethnicity, or gender that are used
8 by other California public and private institutions.

9 Let me conclude, Mr. Chairman, by suggesting that
10 there is no explanation. That is why, among other reasons, this
11 Committee should deny confirmation for Dr. del Junco. Thank
12 you.

13 Now, let me turn it to Mr. Russell.

14 MR. RUSSELL: Hi, my name is Richard Russell, and
15 to correct a statement made by Mr. Carmona, I am still a Regent
16 until June 30th. I serve as an alumni regent.

17 I'm not a very political person.

18 CHAIRMAN LOCKYER: You have one more week?

19 MR. RUSSELL: One more week.

20 I understand, and I've in fact read the
21 Constitution, that politics is to play no role with the
22 Regents.

23 I happen to very much like Dr. del Junco. I will
24 say affirmatively that in terms of the times that he's acted as
25 Chair, actually in open session, I know of no circumstances in
26 which politics or in some way his politics has made a
27 difference.

28 However, the reason I'm here today is because I

1 have an ultimate concern, and that is, I have grave doubts as to
2 whether or not, if given a choice between what is in the best
3 interests of the University of California and people of the
4 State of California, and his party affiliation, I'm not sure
5 what decision Dr. del Junco would make.

6 In fact, specifically, I think there's a greater
7 crisis which is ongoing at the University of the California, and
8 that is that there's a lack of communication, there's a lack of
9 trust as between the Board of Regents and the UC
10 administration. And that's something that concerns me greatly.

11 There's also a hostile environment as between the
12 individual Regents. Obviously, a lot of it has to do with what
13 took place at the Board of Regents two years ago.

14 I want to give you a couple examples of the
15 hostile environment, and I think Dr. del Junco's ultimate
16 responsibility for that environment.

17 Again, my position is only for two years.
18 However, I've heard while sitting at that table such statements
19 as, "What do you expect from a Democrat?" Or, "It's all
20 politics; what difference does it make?"

21 But there have been -- and Dr. del Junco has not
22 made those statements.

23 However, there have been at least two occasions
24 in which there were events in the form of dinners paid for by
25 the people of the State of California in which only Regents and
26 UC administrators were present, in which in my opinion and that
27 of many others, Dr. del Junco has really created an environment
28 of almost a political party dinner.

1 And that offends me greatly. It would offend me
2 just as greatly if it were a Democratic Party dinner as
3 Republican, because I don't believe there's a place for it. But
4 it has a real chilling effect, and it's made many people, both
5 in the administration and those who, perhaps, don't have the
6 same party affiliation as Dr. del Junco, very uncomfortable.

7 I realize that Dr. del Junco feels very strongly
8 about his party affiliation. That's fine.

9 I don't believe the Regents of the -- the Board
10 of Regents of the University of California is the place for
11 that. I believe that he can do all of that here in Sacramento
12 or outside of when we meet.

13 But I'm concerned that that has taken place and
14 will continue to take place, and will do so to the damage of the
15 University.

16 SENATOR BRULTE: Let me see if I've got this
17 correct. I want to see if I can quote you correctly.

18 Comments like, "it's all politics," or, "what do
19 you expect from a Democrat," were made by other Regents, not by
20 del Junco?

21 MR. RUSSELL: That's correct.

22 SENATOR BRULTE: Yet it's his fault that these
23 comments were made?

24 MR. RUSSELL: No, sir. My point was that in
25 terms of maintaining the environment there, to have a dinner of
26 Regents and UC administration, and talk about the party, and
27 what a wonderful job someone did on behalf of the party in front
28 of everyone, it's not a political gathering. Those sorts of

1 things, I believe, maintain an environment.

2 I have not had much of a relationship with Dr.
3 del Junco until last week, when I called him to let him know
4 that I was contemplating coming up here. And that's really the
5 first conversation we had.

6 He has treated me on the most part fairly, but
7 because I might have different beliefs or a different party
8 affiliation, it's been very difficult. I've been an outsider,
9 and that I object to. I don't think there's a place at the
10 Board of Regents for that.

11 It doesn't matter which party. There is no place
12 for that.

13 My concern is, as we go forward, I can think of
14 circumstances in which it may be in his party's political best
15 interest to act in a certain manner. For example, in our
16 outreach efforts. I'm on the Outreach Task Force of the
17 University, and there's clearly a struggle right now as to the
18 direction we take. Some of that, unfortunately, at least some
19 people are taking a political position so as to justify what's
20 happened in the past with regard to SP 1. There is no place for
21 that at the University, and that's my concern.

22 Again, I'm sure, you know, politics comes out of
23 his pores, but not while acting as a Regent, in his capacity as
24 a Regent.

25 So, I would frankly, although I don't see a
26 reason for me to come back, I would, I think, take a principle
27 position if he were a Democrat and acting in that manner, I
28 would be before you today.

1 SENATOR BRULTE: How can you not see a reason to
2 come back? I would assume that if the Regents who made the
3 comments like, "what can you expect from a Democrat," or, "it's
4 all politics," ever come before this Committee for confirmation,
5 I would expect you to be here arguing against their
6 confirmation.

7 MR. RUSSELL: The problem is that I'm at the end
8 of a term. Eight years hence, if one of those Regents is here,
9 I would have to make a decision as to whether or not to get on a
10 plane to fly here for that one comment. I'm not sure about
11 that.

12 I do know that there's a real crisis as between
13 the Board of Regents and the administration, and I know because
14 that's something I've experienced in the last year while he's
15 served as Chairman of the Board.

16 SENATOR BRULTE: The Speaker of the Assembly is
17 the leader of his party in the State Assembly, serves as a
18 member of the Regents ex-officio.

19 MR. RUSSELL: I'm aware of that.

20 SENATOR BRULTE: Do you think that's a good thing
21 or a bad thing?

22 MR. RUSSELL: There are a lot of things I'd like
23 to change.

24 SENATOR BRULTE: Would you change that?

25 MR. RUSSELL: I would like to change the way that
26 Regents are selected.

27 SENATOR BRULTE: How would you like to change it?

28 MR. RUSSELL: I've never met I think it's Speaker

1 Bustamante, nor did I meet Speaker Pringle or Speaker Allen --

2 CHAIRMAN LOCKYER: There's a long list.

3 MR. RUSSELL: -- in my two years.

4 I would be very happy for us as a state to take a
5 second look at that. But, you know, right now, I don't care who
6 it is, but when you're there doing the business of the
7 University of California, that should be the only thing that's
8 important and the only focus of one's attention.

9 Again, I will say in his defense, I cannot think
10 of instance while there chairing a committee, but much of the
11 business goes on, at the Regents at least, behind closed doors.
12 It goes on in the back room. I'm not -- I haven't been very
13 involved in those discussions, but there are circumstances I
14 know where there's been a lot of polarization, and it hasn't
15 gotten much better.

16 And ultimately, I think, the Chair -- you know
17 we are supposed to be a nonpolitical group. I think ultimately
18 the Chair has to take some responsibility at the point that he's
19 added to that problem. That's why I'm here today.

20 SENATOR BRULTE: What changes in the appointment
21 process would you make? If you could wave a magic wand and not
22 have to get a bill through Senator Lockyer, or Speaker
23 Bustamante, or Pete Wilson, how should Regents be picked?

24 MR. RUSSELL: Senator, frankly, I don't know
25 because I can't conceive presently of something, a process
26 that's different that would take out -- take out the process of
27 politics.

28 I do know that because in some regards I'm so

1 apolitical, that although I love the University, I think I'm
2 competent and I have a lot of commitment and integrity, there's
3 virtually zero chance of my ever becoming a Regent, or people
4 like me. And the reason is specifically because I'm not
5 involved politically. On that basis alone, I'm out of luck.

6 And there are a lot of people like me who feel
7 very strongly on behalf of the University.

8 So, I don't know. Obviously there is a need for
9 checks and balances, and maybe it means -- I think it's a shame,
10 whether they're all Democrats or all Republicans, that all the
11 Regents are of one political party.

12 So, I don't have an answer for you. If I did, I
13 would certainly recommend it.

14 SENATOR AYALA: You indicated that the Board has
15 been politicized.

16 When the Governor is a Democrat, he will appoint
17 members to the Regents who, I'm sure, are liberal in their
18 philosophy. And when the Republican Governor appoints, it'll be
19 conservative.

20 I agree that politics, the education of our
21 students is nonpartisan. I don't know what Mr. Del Junco has
22 said that you're not quoting, but he is Chairman. He allows
23 that kind of conversation to take place.

24 In this building, sure, you know, Republicans and
25 Democrats, but when you're trying to educate our students,
26 political persuasion should not enter, whether Republicans or
27 Democrats.

28 And what I hear is that the gentleman in question

1 has been very political, and promoting the philosophy of the
2 Republican Party. Am I right or wrong in that?

3 MR. RUSSELL: You're right to the extent, again,
4 behind closed doors, I'm not someone --

5 SENATOR AYALA: Wait a minute. Closed doors.
6 Doesn't the Brown Act -- well, I've got a bill that'll open that
7 door for everyone, Regents or not. I think it's public
8 business. It isn't private business. They should be open to
9 the public, except when it comes to legal matters, or something,
10 they're contracting out, buying a portion of real estate. But
11 every business conducted by the Regents is public. They're
12 public figures. They're not private enterprise.

13 What business do they have conducting business
14 behind doors in the first place?

15 MR. RUSSELL: I'm not suggesting that it's
16 necessarily a situation in which the Regents are conducting
17 business. It may be a dinner for the Board of Regents and the
18 administrators.

19 But there again, you know, it's those who
20 don't -- aren't part of the party, and there are a lot of
21 people in that room not part of the party, so we feel like we
22 outsiders. I feel that way because I'm not concerned about
23 anyone's politics. I'm only there to do the business of the
24 University.

25 SENATOR AYALA: You don't expect governors to
26 appoint members to any commission who don't agree with his
27 philosophy or her philosophy?

28 MR. RUSSELL: That's why I think it should be

1 changed.

2 SENATOR AYALA: I agree with you 100 percent.

3 MR. CARMONA: Senator, the reason that the
4 12-year term is in place, and the reason Dr. del Junco is before
5 you today, is in large part because that 12-year term and that
6 confirmation process is there in part to ensure that there be
7 that degree of independence, notwithstanding the partisan
8 differences.

9 We've seen differences in terms of court
10 decisions that are made, Supreme Court on down, even though
11 there may be a partisan factor in the selection of that
12 individual.

13 And you're right. It's no different with regards
14 to the Board of Regents, but to large extent --

15 SENATOR AYALA: Someone suggests that we should
16 not turn him down on the basis of philosophy.

17 The Governor vetoes our bills on the basis of
18 philosophy. So, why can't we veto some of his appointments by
19 reason of philosophy?

20 MR. RUSSELL: You obviously have the power to do
21 so.

22 My point is that one should leave one's politics
23 at the door when you're doing the business of the Board of
24 Regents. I don't believe that's occurred.

25 SENATOR AYALA: I want to be fair.

26 I haven't heard you say one word about this
27 gentleman that you feel is political in nature. You said
28 someone said, and this guy said that.

1 What has he done that you feel is politically
2 motivated?

3 MR. CARMONA: I can give you just one quick
4 example, is the situation with one of the student Regents.
5 Students Regents had gone -- it was at a Board meeting. It was
6 limited to the discussion of personnel matters.

7 After he had disclosed that they were in
8 violation of the Brown Act, Dr. del Junco as the Chair removed
9 that student Regent from being on the committee that's in place
10 to select that student Regent's successor to the process.

11 So, he wasn't at all worried when it came to --
12 he may have been complacent generally, as Mr. Russell has made
13 reference to in committee meetings, but when it came down to
14 reacting to a student Regent that was out of place, he took
15 quick action and excluded him from that student Regent Selection
16 Committee.

17 CHAIRMAN LOCKYER: I think we're going to hear
18 from Mr. Bravin shortly.

19 SENATOR AYALA: How long has he been Chairman of
20 the Board.

21 MR. CARMONA: One year.

22 CHAIRMAN LOCKYER: No, he was just elected.

23 MR. CARMONA: No, he was elected about a year
24 ago.

25 SENATOR AYALA: He just elected. I'm reading
26 from his --

27 CHAIRMAN LOCKYER: You were re-elected, but you
28 served, this is a year you've been there.

1 SENATOR AYALA: Reading from his attendance
2 record, Mr. Del Junco attended 34 out of 60 meetings, 57
3 percent, during the period from '90-91 and '95-96. During that
4 period he had the lowest attendance of any Regents.

5 That means all of a sudden, he's attending
6 because he is Chairman; is that correct? He made eight out of
7 eight in '97. So, he's there all the time, but when he was not
8 the Chairman, he was very poor in attending the meetings.

9 MR. CARMONA: When I was alumni Regent, I --
10 there was a couple times made an effort to meet with Dr. del
11 Junco just to introduce myself, become acquainted with him,
12 because I knew he is a person who serves the east side of Los
13 Angeles, and that's where I'm born and raised. But there were a
14 number of times when he was absent and that was delayed.

15 MR. RUSSELL: I should also point out that I did
16 send a letter in support of Gerald Parsky because I believe
17 that, in observing him for the past year, I don't see any sense
18 that his political affiliations have had any to do with his
19 deliberations and what he said.

20 SENATOR BRULTE: When whoever made the comment
21 about, "it's all politics," or "what do you expect from a
22 Democrat," was made, did Mr. Parsky pipe up and comment that
23 that kind of discussion was inappropriate?

24 MR. RUSSELL: I think he was on the other side of
25 the room.

26 CHAIRMAN LOCKYER: Other questions?

27 Thank you.

28 Mr. Brophy, you've been appointed to all these

1 segments of higher ed. Which governors appointed you?

2 MR. BROPHY: I was appointed -- I served on the
3 San Juan Board, and then Hutchison, who the Appointment
4 Secretary for Governor Reagan --

5 CHAIRMAN LOCKYER: Which governor?

6 MR. BROPHY: Reagan. And then Reagan appointed
7 me. And then he reappointed me to the CSU Board for eight
8 years, and then Deukmejian put me back on to CSU. They were
9 having a problem with a Chancellor down there. I went back
10 there as Chairman again, and then he appointed me to the UC
11 Regents.

12 CHAIRMAN LOCKYER: So you did miss the Jerry
13 Brown phase, I guess?

14 MR. BROPHY: No, sir. I served with Jerry Brown.
15 I sat by him for four years. We had a wonderful time together.

16 CHAIRMAN LOCKYER: I'll bet.

17 MR. BROPHY: May I just make one comment to
18 clarify one thing that is being misinterpreted?

19 My comments about the SP 1 and SP 2 were nothing
20 against the Governor. The Governor is still my friend. He was
21 my friend for 20 years, and he still is. I don't -- we simply
22 had a difference of opinion.

23 CHAIRMAN LOCKYER: I don't think anyone thought
24 it was personal.

25 MR. BROPHY: I want everybody as a friend

26 CHAIRMAN LOCKYER: Next, please.

27 MR. NICODEMUS: Mr. Chairman, my name is Don
28 Nicodemus. I am Chair of the Coalition of UC Unions. I'm also

1 legislative representative for UPTE, which is part of CWA. UPTE
2 represents professional and technical employees, University
3 Professional and Technical Employees.

4 I actually work at the University. I'm a
5 computer programmer. I'm here as a volunteer. I do all my work
6 to the union as a volunteer.

7 And I'm deeply concerned about the Board of
8 Regents, and frankly their unaccountability, their lack of
9 ability to come to grips with many of the problems that have
10 come up and we've seen in the press over the last five to ten
11 years.

12 But I did want to say something about the
13 question of politics that was raised. The Constitution
14 specifically says it should be nonpartisan and free from
15 partisan political influence.

16 Most of the decisions that the Board of Regents
17 make are political decisions, but the thing that the
18 Constitution hopes to avoid is one party in power being able to
19 use the University for its own purposes, to give out
20 construction contracts to people that are going to contribute to
21 campaigns, to issue support for an initiative that's coming up
22 on the ballot, that sort of thing.

23 But I'm here not to oppose these Regents for one
24 issue. I'm here to oppose all three Regents -- del Junco,
25 Preuss, and Parsky -- not just because they voted against
26 continuing the UC San Francisco Hospital situation as it
27 currently is, but because of the general process -- moreover
28 because of the general process that they followed.

1 As part of this privatization process, Tirso del
2 Junco, Peter Preuss, and Gerald Parsky have violated
3 Bagley-Keene Open Meetings Act.

4 They, in giving away and creating this new form
5 of governance for part of the University, they violated Article
6 Nine, Section Nine of the Constitution, which, among other
7 things, seeks to have UC administered solely as a public trust.

8 And they've also violated Article Sixteen,
9 Section Six of the California Constitution, which prohibits
10 gifts or transfer of public funds.

11 What happened was, back in July of last year,
12 they decided to go ahead with spending all the money within the
13 University to set up this institution, without even having a
14 full understanding of how the members of this Board of Directors
15 would be selected. So, there were closed meetings then, talking
16 about the structure of the corporation.

17 In November, they voted to go ahead and give
18 eight-and-a-quarter million dollars to this institution, this
19 private company that they've set up, and in spite of the fact
20 that the day before, they heard in closed meeting that, in fact,
21 UCSF was very profitable, and that they had been hiding money in
22 the hospital reserves so that that money couldn't be transferred
23 to other parts of the University.

24 The Legislature has set limits on profit of the
25 hospitals that they can keep within the hospitals. And that
26 money would have been transferred.

27 So, administrators tried to keep this money
28 hidden. So, this November secret meeting, the closed meeting,

1 and I'll quote President Atkinson when he heard about this, he
2 said, "I was stunned by the sort of things I heard. I thought
3 it was very important for the Regents closed session with the
4 Chancellors present to hear this full discussion."

5 This was an audit of their auditors that had come
6 back, Deloit and Touche had come back and said, "Look, you're
7 hiding money in the hospitals. The hospitals are much more
8 profitable than it seems."

9 Regent Preuss, in response, doesn't just pull the
10 rug from under this on this question of the hospitals.

11 So, it's clear that they've been patching some of
12 these things in closed meetings.

13 They've also, in addition to these things
14 specifically on the hospitals, there's this long -- I mean, you
15 may have noticed in the press over the last few years, there are
16 a few stories that have to do with excess executive
17 compensation, excessive high student fees, guilty verdicts
18 against the University for discrimination in order of millions
19 of dollar verdicts. And this has gone on for the last five
20 years.

21 I mean, we did a compilation of this last year,
22 and we came up with 115 scandals that have happened only since
23 1992. And specifically in '94-95, when Regent Preuss was also
24 an alumni Regent, he served a year then, and now he's been
25 appointed for a full term, there were about 12 or 13 of these
26 different scandals, ranging from toxic waste in Davis that had
27 gotten out into the ground water and the neighbors, to fraud
28 probes at UCSF, the response in July to earlier scandals, to a

1 media consultant pay \$60,000 to a media consultant to get out
2 good stories on UC.

3 They participated in the Committee on Jobs, which
4 sought to elect public officials in San Francisco.

5 So, when were these things criticized in the
6 Board of Regents meetings. When were these problems of
7 mismanagement dealt with?. And they haven't been.

8 So, it's not just that it's -- there is -- that
9 these particular Regents are not doing their job, although
10 that's true. But it's also the larger question that we heard
11 earlier, that when one party is in, whether it's Democrat or
12 Republican, when one party is in the Governor's Office for so
13 long, you get a stacked Board of Regents.

14 So, we need a new system of selecting the Regents
15 that's based on local community participation in those
16 appointments. So, we should have, in addition to, perhaps, the
17 Governor appointing them, we should have local communities
18 appointing Regent nominees as well. That should solve the
19 partisan problem.

20 SENATOR AYALA: Can I just respond to the last
21 one?

22 CHAIRMAN LOCKYER: Senator Ayala.

23 SENATOR AYALA: Wouldn't one way to correct that
24 would be that the Regents serve as long as that Governor is in
25 office. When that Governor goes out, that Regent goes with the
26 Governor, so that no one remains in office 12 years, 10 years,
27 after the Governor's gone. The same philosophy of that Governor
28 would go out with him.

1 MR. NICODEMUS: As long as you have some sort of
2 balancing mechanic where one party isn't able to control the
3 Board of Regents. If you have some kind of balance, either
4 geographically, because of the political distribution in the
5 state, or -- and how they're selected, you could have them
6 elected by -- in proportional elections, for example, and that
7 would ensure some nonpartisanship, or balanced partisanship.

8 SENATOR AYALA: Yes, but the term of office is 12
9 years?

10 MR. NICODEMUS: Yes, for the 18 appointed
11 Regents.

12 SENATOR AYALA: The ones we're appointing today,
13 they'll serve 10 years after the Governor's gone?

14 MR. NICODEMUS: Yes, that's right. They do serve
15 a number of years after they're gone.

16 SENATOR LEWIS: Too bad those pesky voters keep
17 electing Republican governors.

18 [Laughter.]

19 MR. NICODEMUS: Well, that's their choice.

20 Would you like to have a Democrat dominated Board
21 of Regents.

22 SENATOR LEWIS: No, I most certainly would not.
23 I'm wondering if you'd be here testifying if the Board of
24 Regents were constituted in that fashion, testifying on this
25 same point if the Regent Boards was constituted in that fashion?

26 MR. NICODEMUS: I think that they have to be held
27 accountable, whether they're Democrats or Republicans. I
28 personally would not be involved in such a large a movement to

1 make a change in the Board of Regents, but I would be up here
2 saying, they need to be accountable, yes.

3 SENATOR BRULTE: The University Professional and
4 Technical Employees, how many members do you have?

5 MR. NICODEMUS: There are about -- we represent
6 totally people who have voted for representation. It numbers at
7 about 6,000. Actual paid dues members, we have about -- a
8 little over a thousand members.

9 SENATOR BRULTE: You'll have to forgive me my
10 ignorance of the issue of consolidating medical centers in San
11 Francisco. I don't have a horse in that fight.

12 How many of your members are or would be affected
13 by that?

14 MR. NICODEMUS: About 400 members.

15 SENATOR BRULTE: It's big deal to your
16 organization?

17 MR. NICODEMUS: I should say there's probably
18 about 400 people who voted for representation.

19 Yeah, It is important for our organization, but
20 we also think that there are larger issues beyond sort of our
21 immediate invested interests.

22 We are not hiding the fact that yes, we're trying
23 to defend the people, our co-employees, that work there.

24 SENATOR BRULTE: How did your organization
25 conclude that they should oppose these three appointments? Was
26 there a meeting where you sat down and --

27 MR. NICODEMUS: I didn't quite hear the
28 question.

1 SENATOR BRULTE: You oppose the appointment of
2 the three Regents?

3 MR. NICODEMUS: Right.

4 SENATOR BRULTE: How did you conclude that?

5 MR. NICODEMUS: We are a democratic organization.
6 We have an elected leadership as part of a statewide executive
7 board. And the executive board decided to oppose these people.

8 SENATOR BRULTE: Based on the entire litany of
9 issues, you came before us?

10 MR. NICODEMUS: That's right. That's right. It's
11 not just because -- I don't think that they should be opposed
12 just because they voted in favor of the hospital privatization,
13 although I'm opposed to that, their vote on that.

14 You know, I could live with that, but the whole
15 process of how the University is being run is a problem. And we
16 have to send a message to these people that we can't have these
17 private, closed meetings. We've got to have the stuff done in
18 open public meetings.

19 This is how you do it. This is your way of
20 holding them accountable. If you don't them accountable,
21 they're not going to hold the executives accountable, and you'll
22 continue to have these kinds of problems.

23 SENATOR BRULTE: If your organization feels so
24 strongly about that, why was the only issue that you raised in
25 your official correspondence with this Committee the issue of
26 privatization?

27 MR. NICODEMUS: The issue of privatization has to
28 do with how they've sought to privatize in the closed meetings,

1 the gift of public funds.

2 SENATOR BRULTE: That's not what your letter
3 says. Your letter says you oppose privatization, not the
4 process by which the Board -- I can read your letter if you'd
5 like.

6 Even in your letter you say, "We need Regents
7 Bustamante and Davis to come to the Board meetings and oppose
8 the privatizations."

9 MR. NICODEMUS: That's right, we do need them to
10 do that.

11 And we hope that these Regents do vote to stop
12 these leases, where they're leasing this property out well at
13 below market value only for the maintenance of the building.
14 Why not lease these out at market value?

15 So, yes, the privatization is a major issue. And
16 certainly they can make it right. They can make, you know, some
17 of these problems with the closed meetings and all these
18 decisions right by not -- deciding not to go ahead with
19 them.

20 SENATOR LEWIS: Next witness, please.

21 MR. SFERIOS: Yes, hello. My name is Emanuel
22 Sferios. I am an employee of the Associated Students of the
23 University of the California at Berkeley. I've also
24 participated in a number of student groups, working on the
25 campaign to preserve affirmative action and against Prop. 209.

26 I'm here -- I'd like to comment on the hypocrisy
27 of Dr. del Junco, where he seeks praise for his charitable work
28 in East L.A, while at the same time supporting policies which

1 produce an under class of individuals, families, who need
2 charity to survive.

3 He also apologizes for his strong political
4 views, which he credits to Fidel Castro. Perhaps this is
5 because Cuba, notwithstanding their failings, have achieved
6 what affirmative action in this country is attempting to
7 achieve, which is the highest rate of secondary education for
8 its citizens of any country in the world.

9 I would also like to speak on the issue of the
10 process of selecting Regents. You know, when I was in high
11 school, I was taught about democracy and how our legislatures
12 are voted for. But no where do I remember any teachers telling
13 me about the Regents and how they're selected. Perhaps that's
14 because they're not selected democratically.

15 It doesn't seem difficult for me -- a number of
16 you have mentioned, gee, how do we do it? What solutions do you
17 have?

18 One solution, and I'm not sure if it's been
19 brought before you, but it's being discussed around UC Berkeley,
20 is the concept of campus councils, where a body of
21 individuals -- faculty, staff, community residents -- would
22 nominate Regents. I think the modest initial proposal is half
23 the Regents, so the other half would continue to be nominated by
24 the Governor. This would at least halfway bring the Board of
25 Regents to a place of accountability and representation where we
26 can be proud of how they're selected.

27 I'm just here speaking for myself.

28 SENATOR LEWIS: Any questions?

1 Thank you very much.

2 Next witness.

3 MR. JARAMILLO: Members of the Rules Committee,
4 my name is Joseph Jaramillo. I'm an education staff attorney
5 with the Mexican-American Legal Defense and Educational Fund,
6 MALDEF.

7 MALDEF is a national nonprofit, nonpartisan
8 organization dedicated to protecting and promoting civil rights
9 of Latinos the in the United States.

10 Members of the Committee, those civil rights are
11 in grave danger from many fronts, one of which is access to
12 higher education in this state. The UC Regents sit as one of
13 the most powerful unelected bodies in this state. They are
14 constitutionally required to serve the public trust in a
15 nonpartisan manner, and they have a deciding influence on access
16 to the University of California.

17 Mr. Del Junco, despite his claims to care for the
18 best interests of Latinos, in particular, and the state as a
19 whole, has been a driving force in closing the doors of access
20 to Latinos and other under-represented minorities.

21 MALDEF opposes the reconfirmation of Mr. del
22 Junco on three grounds, all of which have implications for the
23 educational opportunities of Latinos.

24 First and foremost, Mr. Del Junco was a driving
25 force behind the UC Regents' resolution, SP 1, which eliminated
26 affirmative action admissions. We are now beginning to see the
27 devastating impact of SP 1.

28 Despite Mr. del Junco's claim that affirmative

1 action denies opportunity to Latinos, we now see that it is
2 precisely the opposite. The elimination of affirmative action
3 that denies those opportunities.

4 For example, Latino admissions dropped at every
5 University of California law school that implemented SP 1
6 recently in this past admissions cycle. At Boalt Hall, Latino
7 admittees were cut in one-half, from 78 in pre-SP 1 1996, to
8 merely 39 this year. Similarly, at UCLA, Latino admittees
9 dropped 32 percent, and at UC Davis, they dropped 28 percent,
10 more than any other ethnic group.

11 These numbers are not just due to the high number
12 of minority applicants discouraged from applying to UC, they are
13 due mainly to an admissions policy that disproportionately
14 excludes Latinos and African-Americans. For example, at Boalt
15 Hall School of Law in UC Berkeley, nearly one in four white
16 applicants were admitted in this past admissions cycle, while
17 only one in ten Latinos, and only one in twenty African-American
18 applicants were given offers of admission.

19 Likewise, at UC Davis School of Law, nearly one
20 in two white applicants were admitted, while just more than one
21 in four African-Americans were admitted, and only one in five
22 Latinos were admitted.

23 These are just snapshots of what will eventually
24 occur system-wide in University as this policy, which prohibits
25 even the consideration of one's ability to overcome adversities
26 based on the basis of race and ethnicity continues to be
27 implemented.

28 This is nothing less than the resegregation of

1 our public University system.

2 Second, MALDEF opposes the reconfirmation of
3 Mr. del Junco because despite his position as a medial doctor in
4 East Los Angeles, he has shown indifference to the lack of
5 access to health care for Latino communities. As a medical
6 doctor, Mr. Del Junco should know that Latino medical students
7 are more likely to end up practicing medicine in severely
8 underserved Latino communities than any other ethnic group.

9 Mr. del Junco, more than any other member of the
10 Board of Regents, should also know that Latino and
11 African-American communities are four times more likely than
12 other communities to have a shortage of doctors.

13 Yet, Dr. del Junco has been instrumental in
14 pushing a policy that will result in fewer Latino doctors, in
15 fewer Latino neighborhoods. Indeed, when given the opportunity
16 to testify before a Senate hearing on precisely this issue, Mr.
17 del Junco failed to attend, but instead FAXed a last-minute
18 letter calling for outreach, mentoring, and better K-12
19 preparation.

20 These are all necessary measures, but honorable
21 Members, Latino communities cannot wait a generation after these
22 outreach and mentoring efforts coming to fruition to receive
23 adequate access to medical care.

24 We are losing qualified minority medical
25 applicants, medical school applicants, to private and out of
26 state schools because of this discriminatory admissions
27 policy.

28 Finally, we oppose the reconfirmation of Mr. Del

1 Junco because he engages in uninformed decision making. For
2 example, when asked recently by the Sacramento Bee for his
3 reaction to the dramatic drop in minority admissions to UC law
4 schools, he stated that he was, quote, "not concerned" unquote,
5 because these figures reflected pre-SP 1 admissions. Mr. del
6 Junco did not even realize that SP 1 had taken effect this
7 January 1st for professional and graduate programs, and that
8 this dramatic drop was directly related and caused by the
9 elimination of affirmative action.

10 By way of another example, Mr. del Junco
11 continues to play under the notion that affirmative action
12 results in discrimination against Latinos. As Chairman of the
13 Postal Service Board of Governors, he has pitted Latinos against
14 African-Americans, charging that only African-Americans benefit
15 from the Postal Service's affirmative action policies.

16 Then he has applied this logic to the UC
17 admissions. Yet, as we can see from the first post-SP 1
18 admissions results, everybody benefits from affirmative action,
19 and everyone will hurt from its removal.

20 Latinos, and African-Americans, and women are
21 harmed because they are now provided only the most limited
22 access. Other ethnic groups will hurt because they will attend
23 almost homogenous classrooms without the insight offered from
24 members of diverse communities. This is not educationally sound
25 preparation for working in a multi-racial competitive world
26 economy.

27 Fortunately, the regressive policies founded upon
28 misinformation and ill-conceived divide and conquer politics may

1 not last. We are hopeful that the United States Department of
2 Education, and the United States Department of Labor will heed
3 MALDEF's and other civil rights groups complaints, and
4 ultimately find that the post-affirmative action admission
5 policies of the University are in violation of federal civil
6 rights laws.

7 Chairman Lockyer, who's not present, and
8 honorable Members of the Senate Rules Committee, I urge you to
9 oppose the reconfirmation of Tirso del Junco.

10 Thank you.

11 SENATOR LEWIS: Any questions from Members of the
12 Committee?

13 SENATOR BRULTE: Do you believe race based quotas
14 is the only acceptable form of affirmative action, or if you
15 oppose race based quotas, do you oppose affirmative action?

16 MR. JARAMILLO: The University of California has
17 not had race based quotas since 1978.

18 SENATOR BRULTE: You can answer a question. I
19 just asked you question.

20 MR. JARAMILLO: We oppose -- MALDEF supports any
21 policy -- MALDEF supports affirmative action. Affirmative
22 action is a policy which allows admission officials to take into
23 consideration the race, ethnicity, and adversity faced on those
24 characteristics of applicants. That's what we support.

25 Quotas are illegal, so we can't support quotas
26 and we don't.

27 SENATOR BRULTE: Do you believe people can have
28 differing views on how to implement affirmative action? Does

1 MALDEF believe that?

2 MR. JARAMILLO: Well, MALDEF unequivocally
3 supports affirmative action, so that an organization or person
4 that opposes affirmative action will ultimately be on the other
5 side of any policy debate.

6 SENATOR BRULTE: Is that based on affirmative
7 action, or based on MALDEF's opinion of what affirmative action
8 is?

9 MR. JARAMILLO: Well, MALDEF has a Board of
10 Directors that decides key policy positions. And our Board of
11 Directors decided to support unequivocally affirmative action,
12 and that's our charge.

13 That's what most Latinos in California and the
14 United States support, and I personally, that's what I
15 support.

16 SENATOR BRULTE: Let me move a little bit to the
17 Postal Service issue you raised.

18 My understanding is, Dr. del Junco has been
19 critical in his role as a member of the Postal Commission
20 because he believes that Hispanics are under-represented in the
21 Los Angeles postal area relative to the number of Hispanics
22 within the population. And he has been advocating that more
23 recruitment is done, more outreach is done, so more Hispanics
24 can be put in the senior ranks of the Postal Service.

25 Is that your understanding?

26 MR. JARAMILLO: I'm actually not familiar with
27 that issue.

28 My point in bringing up the Postal Service was

1 that he should not impute his views about one situation and
2 impose them on an entirely different situation, such as the
3 University of California, where Latinos and African-Americans
4 can both benefit from affirmative action.

5 SENATOR BRULTE: I was just curious. I mean, I
6 can have the court reporter read back your comments, but you
7 said that he was pitting blacks against Hispanics, and my
8 understanding is, he has simply suggested that in an area like
9 Los Angeles, that has a huge Hispanic population there, the
10 under-representation of Hispanics within the senior ranks of the
11 Postal Service in Los Angeles should be corrected.

12 And you think that pits Hispanics against
13 blacks?

14 MR. JARAMILLO: Well, I don't -- I can't comment
15 on the specific situation in Los Angeles. I can just comment
16 upon generally what he has stated about the Postal Service and
17 how he has applied that to the context of the University of
18 California.

19 SENATOR BRULTE: Do you oppose what he's doing at
20 the Postal Service?

21 MR. JARAMILLO: I have no position on it. If we
22 explored that issue, then maybe we could take a position.

23 If it's supporting affirmative action, then I'm
24 sure generally our board supports affirmative action.

25 My point is that affirmative action does not have
26 to mean pitting Latinos against African-Americans, whites
27 against blacks, blacks against browns. Affirmative action can
28 benefit everybody.

1 SENATOR BRULTE: I assume since you raised it as
2 issue, you had spent a little time looking into it. My mistake.

3 SENATOR LEWIS: Senator Ayala.

4 SENATOR AYALA: I don't know the exact words you
5 used, but you infer that Dr. del Junco was involved in pitting
6 the advancement of medical students, Hispanic, Latino, whatever
7 you want to call them, to medical school? He was involved in
8 some kind of a practice to discourage or not allow the ethnic
9 minorities to go to medical school?

10 I don't know how you worded that. Is that
11 something you said in your letter there?

12 MR. JARAMILLO: What I said was the passage of
13 SP 1 eliminating affirmative action --

14 SENATOR AYALA: You said he was involved in some
15 movement to impede if minority students going to medical school.
16 And I want to know --

17 MR. JARAMILLO: That's the passage of resolution
18 SP 1.

19 SENATOR AYALA: How did he do that?

20 MR. JARAMILLO: After resolution SP 1 passed,
21 minority applications to the University of California dropped by
22 over 25 percent. The passage of SP 1 sent a message that we
23 will not embrace diversity at the University of California.

24 This was a knowing and willing move by the UC
25 Regents, because there were studies presented to the Board of
26 Regents before the vote SP 1, showing that the number of
27 minority applicants to all University programs would
28 dramatically drop once this policy was implemented.

1 SENATOR AYALA: That is, he supported that
2 effort; therefore, he's not responsible individually, but as
3 supporting a movement that the people of California supported,
4 and that was to pass that proposition.

5 MR. JARAMILLO: The people of California passed
6 Proposition 209 a year after the Regents resolution SP 1 was
7 passed by the Board of Regents.

8 To the extent that Mr. Del Junco is a medical
9 doctor, and that he is knowledgeable about issues of access to
10 medical care, which I think he should be as a medical doctor, I
11 would hold him responsible for not realizing the impact that SP
12 1 could have on the access to medical care of minority
13 communities.

14 SENATOR AYALA: That is the only example you can
15 give me as to how he was involved in throwing hurdles in front
16 of Hispanic or other minority medical students?

17 MR. JARAMILLO: Well, there was also a hearing
18 held two months ago, held by the State Senate two months ago on
19 this very issue.

20 Mr. Del Junco not only did not attend after being
21 invited, but he merely FAXed a two-page terse letter, stating
22 that we need to conduct more outreach, we need to do more
23 mentoring, we need to prepare kids in K-12.

24 That's, you know, the link between that and
25 access to medical education, in my mind, while it exists, is not
26 going to do anything for the immediate need of communities in
27 California that are under-served, Latinos and African-American
28 communities.

1 SENATOR AYALA: Thank you.

2 SENATOR LEWIS: I heard you quoted some
3 statistics dealing with whites, blacks and Hispanics, but I
4 didn't hear you quote anything relative to Asians. What's
5 happening with Asian enrollment since the beginning of the year?

6 MR. JARAMILLO: It's my understanding that
7 Asian-American rates of admission at UC law schools stayed
8 relatively the same, went up slightly in some of the law
9 schools, except at UC Davis, where they dropped. To what exact
10 percentage, I'm not aware of.

11 SENATOR LEWIS: Thank you.

12 Senator Polanco's been sitting there patiently.
13 I understand you have to Chair B&P, Senator, so we're going to
14 take you next.

15 SENATOR POLANCO: Thank you, Mr. Chairman and
16 Members.

17 I'm here today to voice my opposition and to ask
18 that we not confirm. I've circulated a letter to Members of the
19 Committee outlining the basis for a brief comment.

20 Just let me say that I do not oppose the
21 appointment on any single act or on any single vote, for the
22 record.

23 Rather, my opposition is based on what I believe
24 is a track record not only of poor attendance when students of
25 higher education needed it most, but also supporting policies
26 that harm both the current and the potential students of the
27 University.

28 You've heard testimony with regard to the

1 decreases in the medical schools. You can go beyond the
2 medical schools. At UCLA Law School, at Boalt Law School,
3 there's tremendous decrease in the areas of admissions.

4 Now, whether the argument is valid as to who to
5 blame, I believe that comment has been made that this particular
6 nominee has become much too political and has politicized the
7 process, as well as the operation that was established by the
8 voters, quite frankly, Members, if you recall, independent of
9 the Legislature, because it believed that this was an
10 institution that needed thoughtful and balanced perspective on
11 issues critical to the future of higher education.

12 The issue of SP 1 obviously was a breaking point
13 for many. If you go beyond the issue of higher education, the
14 policies and the positions that this person has taken have been,
15 quite frankly, being a physician, shocking to me, given the fact
16 that on the issue of 187, doctors throughout California took the
17 position that people should be given medical care. And for a
18 physician and for a member in this very public forum, it was
19 very disturbing to begin to see and witness a continuing
20 pattern.

21 I do not support quotas, nor do I support the
22 issues of preferences. I do, however, believe that we who are
23 given the opportunity to serve in a public capacity, be it
24 elected or appointed, have the responsibility to attend, have a
25 responsibility to, especially in the institution of higher
26 learning, we can play all the politics that we play because that
27 is the forum. We are elected, and we come to the debate with
28 different issues and beliefs, and different constituencies.

1 When you get to the notion of the institution of
2 higher learning, it becomes -- it should not become a political
3 playground. I believe that institution is headed in that
4 direction.

5 If there is a comment or a question with regards
6 to what we should do, I'm a firm believer that the time has come
7 that this institution should be an institution that probably
8 should not continue to politicize itself. If so, then it ought
9 to become an elected board. If not, and it wishes to really
10 debate and keep the interest of this institution at its highest
11 level, then it should shy away from the politicization that it
12 has engaged itself in.

13 Finally, I believe that the members of the Board
14 of Regents should not only live up to that responsibility to
15 attend those particular meetings, but they should also have a
16 vision of inclusion and a vision of equality.

17 I had the opportunity to briefly read some of the
18 comments that were made with regard to the issues between
19 African-American Postal workers and Latinos. And I find them
20 very disturbing in light of the fact that, if anything, I
21 believe they're carelessly stated. And I believe that they
22 should be considered when we talk about the issues of equal
23 opportunity and equal access to higher education, or higher
24 employment opportunities within the institution.

25 Having said that, Members, I'm here again just to
26 urge you not to confirm or recommend to the Senate a
27 confirmation vote in the affirmative.

28 SENATOR LEWIS: Senator, you used the expression,

1 political playground.

2 What action or actions has Dr. del Junco taken in
3 your estimation to turn the Board of Regents into a political
4 playground?

5 SENATOR POLANCO: Well, I think the actions over
6 last 12 years, if you look at one very, very controversial
7 political issue, Prop. 187. Here is the doctor who is a Regent,
8 here is a person, who by oath, should be adhering to the law
9 that they are sworn up to hold, and that is to provide --

10 SENATOR LEWIS: As a member of the Board of
11 Regents, what did he do within the confines of his appointment
12 relative to 187?

13 SENATOR POLANCO: His position was an affirmative
14 position in support of 187.

15 SENATOR LEWIS: How did he demonstrate that?

16 SENATOR POLANCO: I think you could best ask him.
17 It was reported very clearly in newspaper articles that
18 covered --

19 SENATOR LEWIS: Are you talking about the actions
20 that he took as a private individual or as a member of the Board
21 of Regents?

22 SENATOR POLANCO: I think that it's very
23 difficult to distinguish the two, in light of the political
24 nature of the Regents.

25 SENATOR LEWIS: I think it's very easy.

26 Does a citizen of California or of the United
27 States give up their First Amendment rights by being a member of
28 the Board of Regents?

1 SENATOR POLANCO: No, they do not. No, they do
2 not.

3 However, the responsibility ultimately of that
4 Board of Regents member is to the students, is to the
5 institution of higher learning.

6 SENATOR LEWIS: You mentioned Proposition 187.
7 As a member of the Board of Regents, what did Dr. del Junco do
8 that, in your words, turned the Regents into a political
9 playground with regard to Prop. 187?

10 SENATOR POLANCO: I used the term political
11 playground in the sense of the SP 1, which I think became part
12 of a political agenda. I don't think anyone will deny it. It
13 was part and parcel to divide communities. It was part and
14 parcel to fan a continuation. There'll be a third wave. It
15 came with 187; it came with the affirmative action, and the next
16 one's going to be the issue of choice.

17 So, my points --

18 SENATOR LEWIS: You don't think affirmative
19 action is a political issue?

20 SENATOR POLANCO: Absolutely, it can be a very
21 political issue if, in fact, it's presented in the manner in
22 which it is was expressed by claiming that these were quotas.
23 We have no quotas. We have no quotas.

24 SENATOR LEWIS: From your vantage point, do those
25 like Dr. del Junco, who voted to abolish affirmative action,
26 they're playing politics? But those who vote to sustain
27 affirmative action are doing something else?

28 SENATOR POLANCO: I think the Regents played into

1 a political agenda of the person who appointed them to this
2 body, period. It's no secret.

3 And I think for us to try to sugar coat it any
4 which way is a fallacy.

5 SENATOR LEWIS: If he'd agreed with your point of
6 view --

7 SENATOR POLANCO: What do you believe my point of
8 view is, Senator?

9 SENATOR LEWIS: I think you wanted to retain
10 affirmative action in the University system.

11 SENATOR POLANCO: I think affirmative action is
12 very healthy. I think affirmative action in the institution of
13 higher education is critical.

14 In order for students to become even considered
15 to be into this very -- let me finish. I didn't interrupt
16 you -- to be considered, Senator, as a potential admittee, the
17 minimum requirements of grade point average have to be in place.

18 All affirmative action does, it says we will take
19 into account other considerations so that we don't have a
20 segregated institution of higher learning.

21 SENATOR LEWIS: My point is that I think you and
22 I, or anyone in this room can argue the benefits or detriments
23 with affirmative action, but the question is whether or not
24 Dr. del Junco should be criticized for, quote, "politics"
25 because of one particular viewpoint that he has on affirmative
26 action.

27 SENATOR POLANCO: No, I think he should be
28 criticized for poor attendance. I think he should be criticized

1 for his votes when it came to whether we were going to increase
2 student fees. I think he should be criticized in addition to
3 his position on SP 1, I believe it is, as well as a position
4 that he's taken on the other issues, including 187.

5 The only thing that I have, Members, here as you
6 have is the ability to cast a vote up or down. And we do that
7 based on a variety, not a single act, but a variety.

8 And I believe that the evidence is very clear
9 that there is a pattern on this particular nominee, and that is
10 what I am here to voice my opposition and urge you to deny the
11 recommendation of do pass.

12 SENATOR LEWIS: Senator Ayala.

13 SENATOR AYALA: I just have one question for
14 Senator Polanco.

15 Do you believe that we should lower the entrance
16 requirements for applicants?

17 SENATOR POLANCO: No.

18 SENATOR AYALA: Lower the bar, so to speak, for
19 anyone? I don't care where their grandparents came from.

20 SENATOR POLANCO: No, I do not.

21 And I believe that the students today who have
22 gone through the UC system have met those minimum requirements.
23 They have not lowered the standard.

24 You have to have that GPA, Senator.

25 SENATOR AYALA: What has kept them, quote, "the
26 ethnic minorities," from enrolling at the University of
27 California?

28 SENATOR POLANCO: I think a lot has to do with

1 recruitment, financial considerations. I think if we were
2 modify the existing policy, which I believe Mr. Connerly has
3 indicated a willingness to look at, look at the issue of social
4 economics so that if you are economically disadvantaged,
5 irrespective of the color of the skin, you ought to be -- and
6 you meet that minimum requirement, you ought to be given an
7 affirmative act. That's what affirmative action is.

8 SENATOR AYALA: You touched a very nerve with me
9 when you mentioned about the students' inability to pay their
10 way. I know that Mr. Del Junco voted to raise the fees through
11 the years, which makes it impossible for some people to
12 participate.

13 If they were to provide some kind of a job or
14 something to work it out, but don't deny anyone on the strength
15 of their economic status. That probably would be an equalizer
16 for everyone that applied for the job.

17 But the Regents, and I don't care what Regents
18 come before us, I can't support him if they voted to raise fees
19 for students. They have to from time to time, but then they
20 should provide a way for the students to pay it back, loans or
21 whatever, and not deny anyone, anyone, if they qualify entry to
22 the University of California system.

23 SENATOR POLANCO: Thank you.

24 SENATOR LEWIS: Senator Hughes.

25 SENATOR HUGHES: Thank you very much, Senator
26 Polanco, for being here.

27 As you gave your testimony, did you speak merely
28 as a State Senator representing your Senatorial district, or do

1 you also chair another group? And tell us, is it the Latino
2 Caucus, Legislative Latino Caucus.

3 SENATOR POLANCO: Yes, I do.

4 SENATOR HUGHES: How many Members are in this
5 Latino Caucus, and how many of them share the views that you
6 projected here?

7 SENATOR POLANCO: I Chair the Latino Caucus.
8 There are 17 Members total, four Senators and 13 Members on the
9 Assembly side.

10 With regard to whether or not we took an official
11 position on this, we did not. I had not placed this issue on
12 the agenda.

13 However, I think had I, I can very comfortably
14 state to you that I believe that the appointment and the outcome
15 would be not to support this particular nominee.

16 Again, for the record, I had not placed it on the
17 agenda. Members have been lobbied of our Caucus with regards to
18 this. I have not had one Member come to me to express support
19 of this candidacy.

20 SENATOR LEWIS: Senator Brulte.

21 SENATOR BRULTE: Do you believe that anybody who
22 supported 187 isn't qualified to serve on the Regents?

23 SENATOR POLANCO: No.

24 SENATOR BRULTE: Just physicians?

25 SENATOR POLANCO: No. I think physicians,
26 Senator, have an oath that they take which is different. An
27 oath that says they shall always treat the individual
28 irrespective of ability to pay or irrespective of status.

1 When a physician takes a position publicly and
2 states it publicly which is contrary to that oath, I have a real
3 problem with that, and I think a lot of people do. It's a
4 position that goes contrary to their oath of professionalism, as
5 well as contrary to the position the Medical Association took.

6 SENATOR BRULTE: Are you aware of Dr. del Junco's
7 reputation in the medical community of providing services to
8 people who are indigent and unable to pay, and his record of
9 waiving fees? Would you surprised to hear that he probably does
10 that more than most?

11 SENATOR POLANCO: No, I would not, Senator, and
12 it disheartened me, because I do know the record. I know that
13 Santa Marta Hospital, a few blocks from where I grew up, a
14 facility that is there much because of the to do.

15 But what disappoints me most is when you have
16 that same hospital corresponding to me, asking for additional
17 financial assistance in order to support the undocumented who
18 may be serviced there on emergency basis, and then to have a
19 physician, who has this history there, it sends me a message of
20 some hypocrisy. There is no consistency.

21 So, I am very, very familiar with it, Senator.

22 SENATOR BRULTE: Is it fair to say that your
23 position is that the people of California, the taxpayers of
24 California, ought to provide nonemergency medical care to
25 non-California citizens, non-American citizens, who are here
26 illegally in this country?

27 SENATOR POLANCO: I believe that issues like
28 health care should be given to individuals, irrespective of the

1 status. That is my position, and I have not changed from it.

2 SENATOR LEWIS: Have fun chairing B&P.

3 SENATOR POLANCO: Thank you.

4 SENATOR LEWIS: It won't be quite as exciting, I
5 don't think.

6 Thank you for being so patient.

7 MS. DAVIS: My name Deborah Davis, and I'm the
8 Chair of the University of California Students Association. And
9 that is an association that is a coalition of all of the student
10 associations in the UC system. And by virtue, we represent all
11 160,000 students, undergrad, grad, and professional.

12 And I am here to speak in opposition to the
13 confirmation of the appointment of Regent del Junco. That's
14 based largely on the fact that over the last ten or so years, we
15 keep records of the student friendliness of our Regents.
16 Unfortunately, Regent del Junco's record is fairly poor.

17 He has been very hard to get an appointment
18 with. He has been -- when we do have appointments with him, he
19 has not necessarily been open to listening and talking to us
20 about particular issues and hearing our particular opinions.

21 And as students, we think it's fundamental that
22 the Regents be open to speaking to all of the constituents of
23 the University, and especially those that are directly involved
24 in the day-to-day operations, which students are. We're there
25 everyday. We know what it's like to be on a campus and to exist
26 in a space where students are working 30-40 hours a week so that
27 they can pay their fees, and who are struggling to survive.

28 So, we think it's extremely important that all of

1 the Regents be open to talking to us and to hearing our issues.
2 And we're very disappointed that that has not been the case over
3 the history of Regent del Junco's sitting on the Board.

4 I did also want to make a couple comments about
5 the make-up of the Board, and the politicization, et cetera.
6 And, you know, I think the street goes both ways. I think that,
7 unfortunately, there's always politics on the Board, regardless
8 of who the dominating party is.

9 As a student, I find that really frustrating,
10 because the bottom line is, we just want a good education, and
11 education should not be determined by the politics of the
12 situation. It should be determined by good policy.

13 So, I would urge you to consider the
14 qualifications of each of the three candidates you're
15 considering, their knowledge of educational issues, and those
16 issues go beyond affirmative action to the quality of education,
17 to fee structure, et cetera, and that you base your decision on
18 the qualifications.

19 And unfortunately, I don't believe that Regent
20 del Junco is the best qualified person to sit on the Board of
21 Regents.

22 SENATOR LEWIS: All right, thank you.

23 Next.

24 MS. BORGERSEN: My name is Rose Borgersen. I'm
25 Chair of the Peace and Justice Committee of the Berkeley Gray
26 Panthers.

27 We are up here quite often, speaking for human
28 rights, and social and economic justice. We'll be up here again

1 July 2nd, to urge you all to support the 13 health bills that
2 you're now considering. And we come from time to time. We have
3 supported the California Nurses Association in their effort to
4 maintain good health care, in spite of many positions taken by
5 the University in their connections with hospitals and seeking
6 privatization in many areas.

7 The power of the Regents and the University is
8 awesome to me, because without going through the litany of all
9 the specifics that were named to you about what goes on in
10 closed session, and the position on affirmative action, and
11 other areas that have been touched on in detail here, it seems
12 to me that by virtue of the enormous power that the University
13 has because of its holdings, its property ownership, any time
14 there is -- any time there is a confrontation of any kind on
15 social matters, the University comes down on the side of
16 business. The bottom line is all-important.

17 And my concern is, who takes care of the
18 interests of the people?

19 We are here to speak for the people. We're an
20 advocacy group on social and economic reform.

21 And I think that, perhaps, what I'm suggesting,
22 this is not a personal attack on any of the candidates, but
23 Dr. del Junco has been in power as Chair of the Regents for 12
24 years. And all I have seen in the past 10 years that I've been
25 living in this area is that they do not speak for people.

26 And that's what I would ask you to consider when
27 you take up the matter of confirmation of all three candidates,
28 as a matter of fact.

1 Having been in that position for 12 years, I
2 think Dr. del Junco must take some responsibility for the
3 adverse positions he has taken with respect to the unions in the
4 employ of the University, and the community at large.

5 Thank you.

6 SENATOR AYALA: I think in all fairness, I
7 should correct an error.

8 I don't think that Dr. del Junco has been
9 Chairman of the Board for 12 years. He's only been the Chairman
10 for 2 years.

11 MS. BORGERSEN: Then I'm misinformed.

12 SENATOR AYALA: You are misinformed.

13 MS. BORGERSEN: As I say, this is not a personal
14 attack, but he has been on the Regents for 12 years.

15 SENATOR AYALA: Yes, but not as Chair.

16 MS. BORGERSEN: Not as chair, okay.

17 SENATOR LEWIS: Thank you.

18 Next witness.

19 MS. BERNARDI: My name is Jean Bernardi, and I'm
20 representing the Committee to Minimize Toxic Waste.

21 We're very concerned about a dangerous situation
22 at the Lawrence Berkeley Laboratory, which, as you may know, is
23 just above the UC campus in Berkeley.

24 It seems that either the Regents are unaware of
25 the situation there, or that perhaps they're negligent.

26 And the problem is that the lab, which happens to
27 be owned by the Department of Energy but run by the University
28 of California, has applied for a permit to increase the storage

1 of radioactive hazardous waste in Strawberry Canyon.

2 Strawberry Canyon is a -- well, those who go
3 jogging there think of it as a wonderful, pristine wildland
4 area, but it is a critical fire zone. It's right there next to
5 the Hayward Fault. And in fact, the replacement hazardous waste
6 handling facility that has recently been built, is built
7 directly on top of Wildcat Fault. They say it's an inactive
8 fault; however, that's what they said about the Northridge Fault
9 also, and we know what happened there.

10 The Regents delegated the authority to the UC
11 President, I understand. And then he, in turn, delegated the
12 authority to the director of the lab to make the decision as to
13 whether there should be a full environmental review, a full
14 environmental report on the situation at the Lawrence Berkeley
15 Laboratory.

16 I think right there, that's very poor oversight,
17 to ask the director of his own agency to make these decisions.
18 And of course, he came out with a negative declaration, saying
19 there are no significant environmental impacts.

20 As I've already pointed out, it's a dangerous
21 situation. There certainly are significant environmental
22 impacts to consider.

23 And so, there is a lawsuit in the offing now to
24 ask for a full EIR. And it would be great if the Regents would
25 just make that decision on their own, and we'd save all this
26 time in court.

27 Another significant environmental situation which
28 they overlooked in making their decision not to do a full

1 environmental review was that there is a national tritium
2 labeling facility there in the canyon. This facility
3 continuously radioactive tritiated water vapor into the
4 atmosphere, and only 200 yards from the Lawrence Hall of
5 Science, where 100,000 children visit per year.

6 As Dr. Gauther might say, this is premeditated
7 murder. That's what he said.

8 So, what I am saying is that the Regents need to
9 take more responsibility for this situation. I believe that if
10 we had councils, campus councils to elect Regents, that they
11 would be aware of this situation at the University of California
12 in Berkeley, and this kind of a situation would not
13 exist.

14 SENATOR LEWIS: Thank you. And you are
15 testifying in opposition to Dr. del Junco?

16 MS. BERNARDI: I am, but I can't say that that's
17 the position of the group, but personally I would be against
18 that, yes.

19 SENATOR LEWIS: Is there any member of the Board
20 of Regents that would not oppose?

21 MS. BERNARDI: I am not taking a position on
22 that. I'm taking a position for the council, the campus council
23 who would elect a representative from each campus so that
24 these --

25 SENATOR LEWIS: You have a concern about
26 Strawberry Canyon, and you're here testifying about that because
27 of the lack of involvement or knowledge on the part of the
28 Regents. And you're opposing Dr. del Junco.

1 Would you oppose the other Regents who are up
2 today as well?

3 MS. BERNARDI: You mean Preuss and Parsky, yes.

4 SENATOR LEWIS: All right, thank you.

5 SENATOR AYALA: You didn't mention one issue
6 dealing with education.

7 Is that important to you at all? You dealt with
8 environmental concerns, which obviously are important, but
9 they're there for one purpose, to educate students.

10 You have no concerns about that?

11 MS. BERNARDI: Oh, I definitely do. I'm also
12 concerned about the health and safety of the students. They
13 live in dormitories that are right next to the Lawrence Berkeley
14 Laboratory. And this radiation is going into the atmosphere
15 right where these young people live.

16 SENATOR AYALA: I have no more questions.

17 CHAIRMAN LOCKYER: Did we conclude both of you?

18 MR. SANCHEZ: No, I think I'm next.

19 Good afternoon, Senators. My name is Jonathan
20 Sanchez. I am a publisher of a community -- chain of community
21 newspapers; ten newspapers to be exact. With circulation in Los
22 Angeles County, some of these newspapers actually circulate in
23 the area where -- both areas where Dr. del Junco practices.

24 CHAIRMAN LOCKYER: Where are you located?

25 MR. SANCHEZ: I'm in Los Angeles, Los Angeles
26 County. To be exact, I am in the City of Commerce, where
27 there's a lot of money.

28 I am here to support Dr. del Junco. I am here as

1 an individual but also as a publisher who is in constant
2 communication with the readers, 400,000 a week to be exact.

3 I think what happens here is that we've gotten
4 away from the original intent of being here. What is the reason
5 that we're here for? We are here to get this gentleman
6 confirmed and reappointed. I think that should be based on
7 his --

8 CHAIRMAN LOCKYER: I beg your pardon? We're here
9 for what? To get him reappointed? That's not what we're here
10 for.

11 MR. SANCHEZ: No, to confirm.

12 CHAIRMAN LOCKYER: To advise and consent.

13 MR. SANCHEZ: Right, right. And everybody who is
14 here and has testified, I'm going to get to the point. I don't
15 want to talk about party lines or anything like.

16 The thing we've gotten away -- we've concentrated
17 a lot on affirmative action, and affirmative action is something
18 that cannot continue as it is. It should be changed.

19 But to point to one individual, one Regent, one
20 member, and put the blame on him, I think it's a combination of
21 the all members of the whole Regents, and if that has to be
22 changed or new -- you know, people should come up with
23 suggestions, you know, or some kind of solution, so be it. But
24 we're not going to do that here.

25 The fact of the matter is that I have known Dr.
26 del Junco for many years on a personal level and as a physician.
27 As a physician, he has been very committed. As a physician, he
28 kept my mother alive.

1 But that -- but as a physician also he brings an
2 added value to the Board of Regents because, if I remember
3 correctly, he is a doctor who also has a business savvy, and
4 isn't that what we're going to need in the very near future in
5 order to have all these new doctors, and to make sure that we
6 bring them from the different diverse communities? They need to
7 know how to compete. They have to have the tools.

8 So, let's give them the tools. And I think that
9 the tools are primarily information, that if these individuals,
10 these students are given the right information, make it
11 accessible to them --

12 CHAIRMAN LOCKYER: Sir, why don't you talk about
13 the confirmation process and not general University policy.

14 MR. SANCHEZ: Well, I'm going to.

15 CHAIRMAN LOCKYER: If you have anything to say
16 about Dr. del Junco, say it.

17 MR. SANCHEZ: I just said it.

18 CHAIRMAN LOCKYER: Thank you for your testimony.

19 MR. SANCHEZ: Well, I think you're being rude to
20 me. You're cutting me off, where you have listened --

21 CHAIRMAN LOCKYER: Look, we've got a long day.
22 This is the first of three.

23 If you want to say something specifically about
24 Dr. del Junco, say it. I'm going to run this meeting focused.

25 MR. SANCHEZ: I am in focus, and I said it should
26 be based on his qualifications, his commitment.

27 CHAIRMAN LOCKYER: Okay, we got you.

28 MR. SANCHEZ: I have submitted for the record, as

1 a matter of fact, my own testimony. I hope that you make the
2 time to read it, and thank you.

3 CHAIRMAN LOCKYER: Thank you, sir.

4 Next.

5 MR. RODRIGUEZ: My name is Mario Rodriguez, and
6 I'm representing Council 2872 of LULAC, League of United Latin
7 American Citizens in Southern California.

8 I appreciate the opportunity to address the
9 Committee in support of Dr. del Junco's nomination to Board of
10 Regents of the University of California.

11 I have a speech here, but you know what, I'm just
12 going to detour from that.

13 CHAIRMAN LOCKYER: You can submit anything you
14 want in writing for the record.

15 MR. RODRIGUEZ: That's fine.

16 I just would like to just talk for a minute about
17 -- it'll come from the heart.

18 Dr. del Junco is a man that I really don't
19 understand why he's at this point in time really wants to go
20 through this in his life.

21 CHAIRMAN LOCKYER: I asked him that question,
22 too.

23 MR. RODRIGUEZ: Why would he want to do this?
24 Here's a man that one year ago, his wife was at a University
25 hospital. And this man right there almost lost his wife one
26 year ago because of some negligence at the University system
27 that he's on the Board of Regents of.

28 Let me tell you something. You know that man

1 lost 20 pounds because he was there, day in and day out, with
2 his wife.

3 Yes, he may have missed some meetings. But you
4 know what? If my wife was there, I would have missed every
5 single meeting, too.

6 CHAIRMAN LOCKYER: When was this?

7 MR. RODRIGUEZ: A little under a year ago.

8 CHAIRMAN LOCKYER: No, he didn't miss those
9 meetings. He missed them ten years ago, but not a year ago.

10 MR. RODRIGUEZ: I'm not here to get into the
11 politics of all this, because there's plenty of newspapers here
12 that have all ready spoke about that.

13 And I just hope -- I just hope that we really
14 just be fair-minded. Let's put politics aside for this
15 important issue, because this man gives so much to the
16 community. Gives so much to help people.

17 You know, as Senator Polanco was here and spoke
18 about Dr. del Junco. You know what? That hurts me from the
19 heart, because here's one Hispanic that would not even sit down
20 and at least hear this man out. If he had differences with this
21 man, fine. I have differences with Dr. del Junco. I don't
22 agree with everything he says, he votes on.

23 But you know what? There's a time, and you can
24 sit down, and you can speak your mind. You may not agree on
25 everything, but at least, hopefully, come to some positive
26 dialogue.

27 Let me tell you, a man that came to this country
28 as an immigrant from Cuba, forced from his homeland, let me tell

1 you, I don't think there's too many people in this room that
2 were forced from their homeland from Fidel Castro, who turned
3 that country into communism.

4 This man should be put up on a pedestal for what
5 he's accomplished in his life. It hurts me from the bottom of
6 my heart to see what this poor man has to go through, and all he
7 wants to do, Senators, is help and give back to this community.

8 So, all I'm asking is to please, put politics
9 aside, and let's be fair to this man. And let's give him his
10 day, and let's take a look at his record. And please, I
11 strongly, strongly urge you to confirm this man.

12 Senator, I understand you on your point about not
13 denying any child the education. I'll tell you for one, this
14 man would not try to deny anybody any education.

15 And if we can come up with remedies to try and do
16 -- to ratify that, well then you know what? They're better off
17 for all people, all students in this state.

18 SENATOR AYALA: When the gentleman raises the
19 fees, he's not helping everyone, sir.

20 MR. RODRIGUEZ: You know what, Senator? I have a
21 business, and you know what? The money has to come from --
22 something has to happen. Believe me, I don't like getting my
23 taxes raised. I don't like a lot of things that happen. But
24 you know what? There's only so much money that goes around.
25 And I don't know the particulars about that, Senator.

26 SENATOR AYALA: I've been here 23 years. So, I
27 know about the monies and the lack thereof.

28 MR. RODRIGUEZ: You know a lot more than I do,

1 Senator.

2 I'm just saying, I don't know that.

3 SENATOR AYALA: I'm impressed by the fact that
4 the doctor stayed with his wife. I think most husbands would.

5 Tell me, when did that happen? How long ago was
6 that.

7 CHAIRMAN LOCKYER: A year ago.

8 MR. RODRIGUEZ: I can't give you the exact date.

9 SENATOR AYALA: A year ago. But prior to that,
10 he didn't attend the meetings, so it had nothing to do with his
11 wife being ill.

12 MR. RODRIGUEZ: I'm not trying to make that a
13 point of why he didn't attend the meetings.

14 What I'm saying is that -- the point I really was
15 trying to make on that, Senator, was the University system, yes,
16 there are some flaws. Yes, there are some problems. We all
17 realize that. And you know what? We need a man like this to be
18 on the Board.

19 SENATOR AYALA: You ask us to set politics
20 aside. The problem is, I've heard that he's very politically
21 involved. Why don't you tell him to set politics aside when
22 he's dealing with education?

23 CHAIRMAN LOCKYER: He was a Regent when he chose
24 to be Chair of the California Republican Party, when he chose to
25 sign a lot of questionable attack mail pieces sent against my
26 colleagues.

27 Now, that wasn't somebody who had much regard for
28 the nonpolitical role of Regents. You know, I've had colleagues

1 say to me in the Senate, "I've never met this guy. I don't know
2 him. The only thing I know about him is when I was running for
3 the Senate, mail landed in my district, attacking me personally
4 that was inaccurate, and it was signed by him as Chair of the
5 Republican Party."

6 So, that's all I know about him. So, I'm voting
7 no for that reason.

8 MR. RODRIGUEZ: What I'm hearing --

9 CHAIRMAN LOCKYER: So the point is this, sir.
10 You come to us and say, don't be political. The politics
11 started there, not here. That's the point. We don't need to
12 debate it.

13 You've all ready said it. You've said it.
14 That's your belief. You're just wrong about that point.

15 All right, next witness.

16 MR. SANCHEZ: I'm speaking against Dr. del
17 Junco's confirmation. My name is Rafael Sanchez. And I'm the
18 Legislative Chairman for the California Hispanic Chambers of
19 Commerce. We represent over 8,000 businesses in California.

20 We are opposing his nomination or confirmation
21 for three reasons. First, we feel that the problems that have
22 surrounded the UC system over the past decade, i.e., high
23 administrative salaries, lack of coherent fiscal strategy,
24 affirmative action, are due to the failure of the Regents in
25 their oversight responsibilities. As a 12-year member of this
26 body, he should not be reappointed based on the end results.

27 Secondly, we would urge the State Senate to hold
28 the Governor to a higher standard of appointment in order to

1 safeguard our educational system. We need individuals who are
2 truly independent thinkers. They need to understand that they
3 represent all of California and not just the Governor.

4 Thirdly, we feel that Dr. del Junco's vote on
5 affirmative action had more to do with presidential politics
6 than with education.

7 We urge a no vote. Thank you.

8 CHAIRMAN LOCKYER: Thank you for being brief.

9 Others? Any more witnesses here, raise your
10 hands? All right, last one, I guess.

11 MS. DELANEY: My name is Nancy Delaney, and I
12 work with the Committee for a Responsible University. And I've
13 lived in Berkeley for 30 years. And I've had a chance to see
14 what the impact of the University is, because we are a small
15 town. It's really in our face. It really impacts on the way we
16 experience our daily lives.

17 And so, I have been experiencing the results of
18 Regents' decisions in many ways --

19 CHAIRMAN LOCKYER: Get to the point.

20 MS. DELANEY: -- during del Junco's
21 administration with the Regents.

22 And I would like to recommend that you do not
23 confirm his regency. And the primary reason is the
24 inaccessability of the Regents. We experience them as feudal
25 lords now. There's really no accountability.

26 He hasn't really shown his interest in people.
27 He may do it at the personal level and as a medical doctor, but
28 when he is functioning as a Regent, he makes decisions that have

1 terrible consequences in people's lives. And it's almost like
2 dropping bombs where you don't even know where they're going to
3 hit.

4 Some of the places where they've hit in Berkeley
5 are the UC toxics nuclear storage near populations. The police
6 abuses with no civilian review. We are actually experiencing
7 them like state police now. And they're -- they have changed
8 under del Junco's administration. They have changed.

9 CHAIRMAN LOCKYER: This is what you mean --

10 MS. DELANEY: The UC police, the campus police.
11 They are no longer security police. They are actively,
12 aggressively attacking poor people, youth of color. And del
13 Junco -- they have no consideration for the way that the police
14 are functioning. And there's no mechanisms.

15 There's other things. There's the land
16 acquisitions and the fact that they don't have to adhere to the
17 local zoning laws. Union busting, the unions -- the student fee
18 hikes. The affirmative action.

19 The over enrollment in our town with a continuous
20 disregard for when we have an overload of cars, they know how
21 many students fit in our town, and they, every year, go way over
22 that enrollment.

23 And then the racism, sexism, and homophobia in
24 the tenure to faculty, and the fact that there is no
25 accountability. No genuine ethical way to review the fact of
26 the way that the corporate money is taking over and defining the
27 quality of education and the quality of our life in a campus
28 town.

1 For that reason, we really recommend that you
2 consider Barbara Lee's bill, SCA, I would think. It is for the
3 Board of Regents --

4 CHAIRMAN LOCKYER: We don't want to talk about
5 legislative things today.

6 MS. DELANEY: We really need to have a different
7 system where we have input, and that there -- we have continuous
8 input about the results of the decisions, because it just can't
9 go on like this. This is not a democracy that we live in, in
10 Berkeley, with the Regents deciding what's going to happen there
11 and living someplace else.

12 CHAIRMAN LOCKYER: Questions? Any additional
13 comment? Has everyone testified?

14 Yes, Dr. del Junco, if you'll come back up.

15 Isn't it fun to have all these people get up and
16 say good and bad things about you?

17 DR. DEL JUNCO: It's a long, long day.

18 You know, Senator, certainly you know --

19 CHAIRMAN LOCKYER: It sounded like you maybe have
20 notes and want to make comment first?

21 DR. DEL JUNCO: Yes, I want to make a comment, if
22 possible.

23 SENATOR HUGHES: Can I ask questions?

24 CHAIRMAN LOCKYER: We'll have time for questions.

25 DR. DEL JUNCO: Let me make a comment.

26 I am going to make a couple of corrections. It
27 seems to me that this body here has access to confirm much of
28 what has been said here, and some of the accusations.

1 I am not asking for a confirmation for a 12-year
2 appointment. It's only a 3-year appointment, a correction,
3 because it's been repeatedly said.

4 CHAIRMAN LOCKYER: The other two are 12 years.
5 His is three, the remainder of Mr. Bergener's term.

6 DR. DEL JUNCO: Exclusively.

7 Second, about the fees. At the time that I voted
8 for the fees, every member of that Board of Regents voted for a
9 fee increase. The faculty recommended fee increases. The
10 Chancellor recommended fee increases.

11 It was at the time of the budget crunch. And I
12 understand that the Legislature, as they debated the vote,
13 talked about raising fees.

14 SENATOR AYALA: Let me ask you.

15 The faculty and Chancellors and everybody else
16 asked for this raise?

17 DR. DEL JUNCO: Yes.

18 SENATOR AYALA: And you supported it?

19 DR. DEL JUNCO: I supported it.

20 SENATOR AYALA: They also were against
21 affirmative action. All of them were.

22 Why didn't you support them at the time?

23 DR. DEL JUNCO: Certainly, your Honor, I don't
24 support everything and anything that they recommend, but in this
25 particular case, we had a \$400 million downfall. By increasing
26 the fees, we were able to make up \$100 million, and the other
27 \$300 million were made up by cutting here and there, freezing
28 the salaries of the faculty, freezing all the benefits.

1 SENATOR AYALA: On this point, let me just read
2 you an article that appeared in Saturday's Bee. And it says,
3 "UC Urges Approved Bonus."

4 You talk about lack of money, "The University of
5 California Regents Friday approved a second -- second --
6 retirement bonus for retiring UCLA Chancellor Charles Young.
7 Young, 65, who has led UCLA since 1968, was promised a
8 supplemental retirement package in 1992.

9 "This was just before the scandal broke out over
10 news that then-retired David Gardner was getting a one million
11 dollar bonus, while the University was hiking students fees."

12 Can I repeats that to you? Do you understand
13 what you did at the expense of the students?

14 "UC official later announced they were curbing
15 special perks for retiring executives. In Young's case, a
16 package worth about \$2,000 dollars a month was approved, but
17 carried out a retirement date of 1999. On Friday, Regents
18 agreed to change the effective date to his actual retirement
19 date of 1997."

20 That means that Young will be collecting that
21 money on top of another retirement, worth about \$203,000 but
22 we're in such a bind we increase student fees. Now, explain
23 that to me.

24 DR. DEL JUNCO: First of all, many of those
25 commitments were made years ago by the then-President of the
26 University. Since then, the rules of the game have been
27 changed. The Boards of Regents have taken back the authority.
28 But these were commitments that legally the University was

bound, because they were made by the then-President Gardner to these individuals.

I wasn't there yesterday when the vote was taken because I had left, because I knew there was a vote for the election of the Chairman, and I did not want to influence.

Mr. Russell, who voted for me for Chairman of the party [sic], and yet here he is today -- Chairman of the Regents. And here he is today, voting against me. I left the room at the time that vote was taken.

SENATOR AYALA: You didn't vote for this?

SENATOR AYALA: No, I was not there, but I want to clarify that these are commitments that were made by the then-President Gardner. And we had delegated that responsibility.

SENATOR AYALA: It was binding on this Board of Regents?

DR. DEL JUNCO: That's right.

We have taken that back, Senator, that authority.

SENATOR AYALA: The Board should recognize that and quit tinkering with student fees.

When they have that much money to give to retirees, what about the students? We're supposed to educate the students, not pay for retirees so they can go with a big pension at the expense of the students. And I resent that very much.

DR. DEL JUNCO: Senator, the last three votes -- I would appreciate if we could put this in the proper context -- I did vote for a student fee initially, so did a lot of members

1 of the Legislature and everybody else.

2 But the last three votes, three times, Dr. del
3 Junco, with three other Regents, have voted against it for the
4 very precise reason that you're giving here.

5 And I would hope that I'd be given the
6 consideration of judging the situation according to the
7 fiduciary responsibility that I have. I did that so, thinking
8 that I was doing the right thing.

9 Having talked about that, let me talk about for
10 one minute about this merger.

11 Yes, it is true that Dr. del Junco has
12 continually spoken his concern about the issue of governance,
13 public records, public disclosure, and so on.

14 It is also true that I voted once in favor of
15 continuing the study of the process in this study of having an
16 independent study of the process.

17 However, it's true, too, that Dr. del Junco is
18 awaiting the total, total disclosure of the package to know what
19 is the risk for the University of California after we come into
20 this merger. Where is the responsibility of the University
21 vis-a-vis the medical schools and the other schools of the
22 University of San Francisco.

23 Then I will make up my mind if I'm going to vote
24 in one direction or another direction.

25 But it's obvious that the only reason the nurses
26 are opposing me is because I'm in favor of the merger. Well,
27 they are holding accountable because of the vote that took
28 place.

1 I suggest to you that perhaps in the next 60
2 days, you will know exactly where my vote is, if you allow me to
3 vote, you know, because my confirmation is not due until March.

4 Before I answer questions, I want to answer
5 Mr. Polanco. I challenge Mr. Polanco to bring one single case
6 in my 40 years of practice of medicine in East Los Angeles in
7 which I have denied medical care to any individual vis-a-vis
8 legally, legal, white, Nicaraguan, black, who ever it is. A
9 single person in my lifetime.

10 I think you insinuate because I, as member of the
11 Republican Party and as Chairman of the Party, endorsed 187, as
12 an individual, as a Chairman of the Party.

13 I want you, ladies and gentlemen, to review the
14 minutes of the Board of Regents, and you will find out that not
15 once the issue of 187 was discussed, directly or indirectly, in
16 there by me.

17 CHAIRMAN LOCKYER: Wait, wait, wait. Oh, you
18 mean as a Regent?

19 DR. DEL JUNCO: Yes.

20 CHAIRMAN LOCKYER: You mean just the fact that
21 you were chairing the Republican Party when they contributed
22 about \$300,000 to Yes on Prop. 187?

23 DR. DEL JUNCO: But I suggest to you that because
24 I become a Regent, I don't think that I am resigned of all my
25 constitutional rights and the First Amendment.

26 CHAIRMAN LOCKYER: I absolutely agree.

27 However, then we get to assess your participation
28 in things like advocacy for Prop. 187, which, by the way, since

1 we've been told, gee, at least by some, not yourself, we really
2 can't deal with the vestiges of discrimination at the University
3 level with affirmative action policies. Let's start lower.

4 Well, 187 kicks thousands, tens of thousands of
5 kids out of public school in California. And it is currently
6 unconstitutional, that provision, unless the Court someday
7 changes its views. It didn't bother you to be an advocate for
8 it, however.

9 DR. DEL JUNCO: You're a member of your party. I
10 am sure that as a leader in the Democratic Party, you must not
11 agree 100 percent with everything that comes out.

12 CHAIRMAN LOCKYER: You're right about that.

13 DR. DEL JUNCO: And you, to assume that Dr. del
14 Junco agrees with every item and every aspect of 187 is no more
15 fair than for me --

16 CHAIRMAN LOCKYER: Wait. You were an advocate
17 for 187. You said, vote yes on 187.

18 DR. DEL JUNCO: But I was the Chairman of the
19 Party.

20 And I say to you that I was for 187, but not
21 necessarily for that portion that you describe. Now, I have
22 been accused --

23 CHAIRMAN LOCKYER: I noticed a lot of
24 qualifications in your public statements, like, yes on 187.
25 Not, well, mostly it's okay.

26 DR. DEL JUNCO: No, no. You and I have
27 discussed, and I believe that I'm known to be a pretty straight
28 person.

1 But for Polanco to assume that because I was in
2 favor of 187 that I have denied medical care to the poor, I
3 suggest to you that that is an extrapolation that goes beyond
4 reason.

5 CHAIRMAN LOCKYER: I missed that because I was
6 presenting a bill in the Assembly.

7 But we, I think, know of your personal charitable
8 and philanthropic activities in East L.A., and you should get a
9 lot of credit for those. That is, that you have personally
10 provided medical care without asking people for proof of
11 citizenship or anything else. That you have done that probably
12 over the decades, countless numbers of times.

13 So, I think he was talking about the policy, not
14 your own personal practices. Your personal practices are
15 exemplary in this respect.

16 DR. DEL JUNCO: Finally, before I take questions,
17 I want to make it and ask of this Senate Rules Committee to
18 access the minutes of U.S. Postal Service -- of the Board of
19 Regent, of the Board of Regents, and find out specifically
20 how -- if any polarization has taken place.

21 Mr. Russell here today stated to you that in the
22 course of the meetings, I never -- he never heard me politicize
23 this once. He only said that it was in social events, in a
24 dinner, or whatever, in which I recognized Senator
25 or Congressman Clair Bergener as a long-time Republican.

26 You know, I suggest to you that that is a true
27 fact. And if that is a bond, so be it.

28 CHAIRMAN LOCKYER: And a very fine man.

1 DR. DEL JUNCO: And a very fine man.

2 But he objects to any form of -- and he called
3 that politicization.

4 But he has testified here against me, and at the
5 same time, when asked, he has said that not once did I -- did I
6 politicize or make a statement that was political.

7 I suggest because I believe that it is important.
8 You got time to review the record. I think there's time to
9 research much of the testimony. I am here. I do not want to
10 engage in that portion, but I beg of you to research the
11 testimony that's been presented here. Some of it, it's rather
12 extreme.

13 CHAIRMAN LOCKYER: Most of it is philosophical.
14 They disagree with your view on fees, or governance, or 187, or
15 209, or the merger of UC and Stanford medical system. So, most
16 of it's philosophical.

17 DR. DEL JUNCO: I appreciate, really, the
18 courtesy that's been extended to me here today. On the one
19 hand, it's been a pretty rough day, but I do appreciate your,
20 personally, your courtesy.

21 CHAIRMAN LOCKYER: Doctor, let me acknowledge
22 Senator Brulte, but also to mention that when he initially
23 lobbied for you, his claim was very personal. That is, medical
24 service that you provided for his own family.

25 I just wanted to acknowledge that there's another
26 example of this poor kid from San Bernardino getting a little
27 help.

28 SENATOR BRULTE: Before we go to the questions,

1 just one technical.

2 When did your wife get sick, and for how long was
3 she sick?

4 DR. DEL JUNCO: My wife in a period of three
5 years sustained three intestinal obstructions.

6 SENATOR BRULTE: When did that begin?

7 DR. DEL JUNCO: It began around '94, '95.

8 By the way, going to that question, I would
9 appreciate if the Secretary of the Board in my office can give
10 you a record of my absenteeism.

11 CHAIRMAN LOCKYER: I have it. I mean 1985, 85
12 percent. In '86, 77; in '88, 77; in '90, 55; '91, 66. '92, 66;
13 '93, 44.

14 DR. DEL JUNCO: That's when my wife was sick.

15 CHAIRMAN LOCKYER: '95, 55; '96, 53. Current,
16 100 percent. Those are the attendance records.

17 They're pretty good except they're worse than any
18 other Regent, apparently.

19 DR. DEL JUNCO: Can I ask the secretary to
20 submits you information about the other Regents as comparison?

21 CHAIRMAN LOCKYER: Sure. I don't have them all
22 with me.

23 DR. DEL JUNCO: I don't think that I'm the worst,
24 but nevertheless, I might be wrong.

25 CHAIRMAN LOCKYER: I have Parsky and Preuss with
26 me, and of course they haven't been there as long, so that would
27 partly an explanation. They're 100 percent, as were you this
28 last year.

1 Senator Hughes.

2 SENATOR HUGHES: Thank you very much.

3 You show that you have great medical training
4 because you have great patients.

5 DR. DEL JUNCO: Speaking of today?

6 CHAIRMAN LOCKYER: You can tell she's married to
7 a doctor.

8 SENATOR HUGHES: And he's patient with me, too,
9 and thank you.

10 What characteristic does the UC Medical School
11 have that they use in considering admission for applicants to
12 their medical schools?

13 DR. DEL JUNCO: Well, they are now currently
14 there is a study going on about -- as requested by the Board of
15 Regents, an ad hoc committee, that we will be receiving a report
16 in September to see what are the characteristics that you say.
17 I mean, background, historical economical disadvantage, and
18 personal disadvantages and so on.

19 And the Board feels that we can come about an
20 affirmative action program that was not racial driven.

21 I think that this -- let me just make this
22 position. The only position that the Board has is against
23 racial driven. All the other characteristics that were talked
24 about here, they're all in place, your Honor. None of them has
25 been excluded.

26 SENATOR HUGHES: I still want to ask you the
27 question, you're telling me that they're going to have a study
28 to consider all of these things?

1 DR. DEL JUNCO: It's done.

2 SENATOR HUGHES: I ask you now as a Regent, how
3 long have been a Regent? How many years?

4 DR. DEL JUNCO: Twelve years.

5 SENATOR HUGHES: And in your twelve years, you
6 should know, I would imagine, especially since this is your
7 profession, what characteristics are considered when an
8 applicant applies to one of your campus medical schools? That's
9 my question.

10 DR. DEL JUNCO: An applicant applies to medical
11 school, it's his grade point average in college is considered,
12 as well as his family background, if he's an underprivileged
13 person, his leadership.

14 SENATOR HUGHES: Or her?

15 DR. DEL JUNCO: Or her, both, okay.

16 The point that I'm going to say is his
17 leadership, his participation in other areas, and then he is
18 interviewed.

19 All of these characteristics are considered by
20 the interviewers, and the interviewers then, you know, make the
21 determination. This interview is carried by teachers and
22 professors, as well as students form part of the panel.

23 Up to now, race was considered as only part of
24 these characteristics, because there was the Bakke decision that
25 came down many years ago that states, or what appears it's
26 changed now, that yes, race may be used, not as a sole
27 determining factor, but as a contributing factor. And these
28 have been taken into consideration.

1 Now, we talked about the study. The study is
2 finished. The study was over year, fourteen months ago, and
3 the study is finished.

4 I am appointing a committee, a permanent
5 committee who is going to deal with adversity. In fact, Senator
6 Brulte's going to be chairman of that committee, because I'm
7 personally very much interested in finding a resolution of this
8 problem.

9 SENATOR HUGHES: And you know that those
10 statistics have been thrown out to you before about the fact
11 that Hispanic and African-American applicants to the medical
12 schools have dropped by some 22 percent. That's twice the
13 national decline.

14 How do you feel about that? Does that bother
15 you?

16 DR. DEL JUNCO: I don't only feel terrible about
17 that, and it is why I am proceeding to do what I have said. But
18 I feel also terrible about the thousands and thousands of
19 children and young students who have no access to our system
20 because of the problems with the K-12 system.

21 Let's not forget that 25 years ago, only 3
22 percent of blacks and Hispanics were eligible for the UC system,
23 and today, 25 years later, it still is 3 percent.

24 This must be corrected. And we see thousands,
25 thousands of young men and women dropping out of school. And
26 these people are not eligible, Senator, not because of grade
27 point average. They're not eligible because they don't even
28 have the subject matters required and mandated to come to the UC

1 system.

2 Every year in the Boards of Regents, I have
3 addressed this issue. It falls in deaf ears.

4 This is why I am appointing a committee that is
5 going to deal with the State Superintendent. A committee that
6 is going to deal actively, on a monthly basis, with the
7 President's office.

8 This is horrible, not only what happened with
9 attorneys and with the young medical students, but with
10 everybody. And this has to be changed. And we just cannot
11 satisfactory ourselves, to be very candid, throwing a bone to a
12 handfull of people and think that we have satisfied the needs of
13 our state and our community.

14 SENATOR HUGHES: Since the affirmative action
15 decision was made by the Regents, I know that you realize these
16 statistics, but I just want to repeat it again.

17 The African-American admissions to Boalt Hall Law
18 School this fall fell 81 percent, and Latino admissions fell 50
19 percent.

20 How do you feel about that?

21 DR. DEL JUNCO: Terrible. This is why I made the
22 comment that I just made to you. This is totally unacceptable,
23 and it's unacceptable, I can tell you without any reservation,
24 to every Regent who has talked to me, and to believe that we're
25 willing to accept these figures, I mean, it's just
26 incomprehensible.

27 SENATOR HUGHES: Do you think that this decline
28 in these minority applications were due to the perception that

1 they would not be welcome, nor would they even have the remotest
2 chance of being admitted to UC because of the abolishment of
3 affirmative action position that was taken by the Regents?

4 DR. DEL JUNCO: I have been told that that has
5 been perhaps the most prevailing factor.

6 Again, we are doing special evaluations to
7 determine what other factors might be involved so it can be
8 corrected.

9 SENATOR HUGHES: What do you think can we do, if
10 anything, to reverse this trend, to have students believe that
11 their ethnicity will not work against them?

12 DR. DEL JUNCO: You know, this is not a problem
13 only to the Board of Regents. Let's be quite candid with all
14 ourselves.

15 The Senate is involved. The Legislature body.
16 We're probably going to have to come up with additional funds in
17 these areas where they've been so deprived.

18 The issue here is the K-12 system. The issue
19 here is that the majority of these children are not eligible
20 because, A, they're dropouts, or B, they don't even have the
21 subject matters.

22 I believe that this is going to require a total
23 dedication by all of us. This is why I'm taking my part in
24 requesting from the President immediately a report, now that the
25 ad hoc committee report is in, and I'm appointing a committee.
26 The people on that committee are not all pro SP 1, SP 2.
27 Certainly, Regent Brophy and Regent Gonzales, and Regent Sayles,
28 these people are going to be sitting that committee.

1 And we are going to collaborate and try to see if
2 we can't persuade others to help out. Because these young men
3 and women are coming to us already deprived with an opportunity
4 to participate in the process because of the poor education that
5 they have received going through the K-12 system.

6 SENATOR HUGHES: As we approach the 21st Century,
7 they tell us that our state will fast become a minority majority
8 state.

9 Is that a concern of yours, and what should we do
10 in terms of providing that we have more physicians to care for
11 this population?

12 DR. DEL JUNCO: Number one, it is a concern I
13 have through the years, make those projections to many of my
14 friends. I've done it in a political way. I've done it a
15 nonpolitical way.

16 I think this is the most serious issue that faces
17 the State of California.

18 CHAIRMAN LOCKYER: It's the most serious issue
19 there is for the next hundred years.

20 DR. DEL JUNCO: That's right. We are creating
21 here an apartheid society where the Hispanics are not going to
22 be eligible for the better jobs in the market place.

23 So, it is important for us to come together. It
24 might require additional funds to go into East Los Angeles, to
25 go into south west --

26 SENATOR HUGHES: I hear of all of the wonderful
27 things that you do as a physician in your community.

28 Are you member of the National Hispanic Medical

1 Association.

2 DR. DEL JUNCO: Yes.

3 SENATOR HUGHES: Good, I'm glad to know that.

4 So, that I would hope that that Association would
5 be helping you to reach the goals that we need.

6 DR. DEL JUNCO: Not only, there is an association
7 in the State of California who has become rather strong in the
8 last four or five years. We are very actively involved in the
9 same issues that you are. They are paying for scholarships.

10 And we got to get methods and procedures where
11 about we have to get additional young men and women applying to
12 medical school.

13 The point here is that I am an individual who has
14 been portrayed here today as being against the improvement of
15 the standing of Hispanics in the community, and nothing is
16 further from the truth.

17 SENATOR HUGHES: What's your understanding of the
18 Academic Senate's authority over educational policy and
19 admissions? There's always been a great concern that those
20 people who donate the most to the University would get
21 preferential treatment.

22 Is that a concern of yours?

23 DR. DEL JUNCO: This is a --

24 SENATOR HUGHES: And how do we function?

25 DR. DEL JUNCO: This is a great concern of mine,
26 so much that the issue came up at our meeting in June, and this
27 has been referred to the Senate for its recommendation to
28 establish procedures so this will no longer continue.

1 And the Board of Regents, the only reason that we
2 did not take action, first of all on it, was because this has
3 not been dealt with by the Senate. And you know, we have talked
4 a lot about the issue of governance and shared governance.
5 Therefore, we felt that following all the standards, and all the
6 commitments that the Regents have made to the faculty of shared
7 governance, we have not only sent it back to them, but have
8 requested a report, I think it's 90 days or whatever is the term
9 limit there.

10 SENATOR HUGHES: We're looking at revising the
11 way that students from poorer performing high schools are
12 selected for college and university. This is a great problem in
13 my community, a problem not only for the ethnic minority, but
14 for the poor population in general.

15 And I want to know how you react to something
16 that I am proposing, Senate Constitutional Amendment to amend
17 the Constitution to choose the top 12.5 percent of students from
18 each high school, who would be entitled to a UC admissions in an
19 effort to guarantee that the students who try the hardest will
20 get there, and it would consequently reflect the ethnic
21 diversity of our state's population.

22 What do you think of that?

23 DR. DEL JUNCO: Senator, I do not know the
24 details of it because I have not read that piece of legislation.

25 SENATOR HUGHES: What about the concepts?

26 DR. DEL JUNCO: But I heard about the concept.
27 I think it's extremely interesting.

28 There are others who believe that we don't have

1 to go twelve-and-a-half, that we should go only six-and-a-half,
2 but I think this is a concept that deserves every exploration
3 that one can give it.

4 I believe that we've got to bring the Senate and
5 the faculty and everybody to the table, because it is this kind
6 of innovative approaches that we're going to have to face if
7 we're going to see some resolution of this problem.

8 So, this is extremely interesting. I just heard
9 about it not too long ago.

10 I was not privileged to the information. But as
11 I was preparing myself to come before you, I did become
12 acquainted with this. Sort of be extremely presumptive on my
13 part, as well as I know, to endorse this or go against it, but I
14 think this is the type of proposition that I would hope that
15 this new committee that we are appointing is going to bring to
16 the table, and discuss, and see what is best for the University
17 and for the students.

18 SENATOR HUGHES: Would you be willing to work
19 with us to see --

20 DR. DEL JUNCO: Absolutely.

21 SENATOR HUGHES: -- to see that something like
22 this comes about?

23 DR. DEL JUNCO: Absolutely.

24 SENATOR HUGHES: So that those who have had the
25 least chance in the past will have a better chance in the
26 future.

27 So, what do you think happens then to the medical
28 schools and the law schools? Will these percentages change?

1 DR. DEL JUNCO: Now when we're talking about
2 medical schools and law schools --

3 SENATOR HUGHES: They have to get out of high
4 school first, so I'm talking about the high achievers. If there
5 are a certain number of seats that we're going to guarantee will
6 be preserved for those students at the highest academic scale in
7 the high schools, then consequently, are these same students
8 going to be admissible to our medical and law schools?

9 DR. DEL JUNCO: I suggest to you that I cannot
10 extrapolate if, because we go out and we admit twelve-and-a-half
11 percent, the top of the school, that this will in turn will
12 be -- we'll be able to gain any kind of successes when it gets
13 to the graduate school.

14 But I think that we have today numbers, and we
15 can, with our computers, we can attempt to extrapolate as to
16 what would have happened if we would have put this in place, you
17 know, at the level of the graduate schools.

18 But I think that we can come up with figures that
19 can tell us, you know, what will happen, what percentage of
20 these students are going to be dropouts.

21 We know that these medical school students that
22 we admit from minority areas, the dropout is no more than from
23 other Anglo white areas currently.

24 So, it might be very possible that you're
25 absolutely correct.

26 SENATOR HUGHES: But then some of our students
27 never even think of going to medical school, nor do they think
28 of going to law school, because they don't think that they can

1 get in.

2 So, what do we do to correct that?

3 DR. DEL JUNCO: I think a man like your husband
4 and myself have to be out there in the public eye, have to be
5 dealing with the students to demonstrate to our students that
6 there's an opportunity.

7 You see, many of our students do not even
8 understand the great opportunity that's out there, and that they
9 should take advantage of those opportunities.

10 SENATOR HUGHES: Well, historically, my husband
11 has been mentor to many, many medical students. And he's
12 currently mentoring medical students now, and as member of the
13 National Medical Association, that's one of their projects.

14 I imagine the National Hispanic Medical
15 Association does that. Have you ever done that? Do you think
16 many successful professionals like yourself should be doing that
17 kind of thing, mentoring people who look like them, who are of
18 their same culture, to help them get to where they want to be?

19 DR. DEL JUNCO: I am mentoring. I've mentored
20 many, many, in fact, currently there's two doctors, Santa Marta
21 Hospital Emergency Room, who, I believe that my example, I
22 believe that I am a role model for a lot of people out there in
23 the community. And I have done nothing in my life but to try
24 and be a role model for all of these people.

25 I believe that mentoring is perhaps the most
26 important in a way that one can succeed in accomplishing what
27 you're talking about.

28 SENATOR HUGHES: Thank you.

1 SENATOR AYALA: Dr. del Junco, I just have two
2 more questions.

3 The Board of Regents, in May of 1997, set aside a
4 proposal by Regent Ward Connerly to ends VIP admissions, the
5 practice of admitting students whose family has been substantial
6 donors to the University. The Chancellors complain a change in
7 policy would deny their flexibility. The Los Angeles Times
8 reported that some VIP applicants have been admitted to UC on_
9 the basis of their family connections after being initially
10 turned down.

11 What is your position on banning donor based VIP
12 admissions?

13 DR. DEL JUNCO: I'm against it.

14 SENATOR AYALA: You're against it. Would you
15 vote if it came before you --

16 DR. DEL JUNCO: That was not put aside. That was
17 sent to the faculty and to the Senator for -- and requested a
18 report under shared governance principles.

19 SENATOR AYALA: It never came before you for a
20 vote?

21 DR. DEL JUNCO: It was tabled because it had not
22 gone through the Senate and the faculty, and it was a violation
23 of the shared governance. This issue has not been put aside.
24 This issue has been referred with the understanding that it's
25 coming before the Board.

26 And I have stated, and by the way, I'm not one of
27 those Regents that's been identified involved in any of this
28 process. I think in my 12 years, I have never called once. So,

1 again, the record speaks for itself.

2 SENATOR AYALA: Regent Ward Connerly was out of
3 line on that issue?

4 DR. DEL JUNCO: No. I think Ward Connerly was
5 correct.

6 SENATOR AYALA: But he was premature?

7 DR. DEL JUNCO: Absolutely. I think the mistake
8 he made is that he violated the shared governance principle, and
9 had not referred the matter --

10 CHAIRMAN LOCKYER: Wait a minute. You didn't
11 care about that what it came the Prop. 209 affirmative action
12 policy.

13 DR. DEL JUNCO: Yes, because it went -- let me
14 tell you.

15 Shared governance does not mean that you have to
16 agree all the time. It means that you give them an opportunity
17 to give an opinion.

18 CHAIRMAN LOCKYER: So, they all were able to give
19 an opinion in the case of affirmative action? Did the faculty
20 all have an opportunity prior to the Board of Regents?

21 DR. DEL JUNCO: Yes. We discussed this issue for
22 a period of almost a year. There were a lot of meetings. We
23 received numerous reports from the faculty.

24 CHAIRMAN LOCKYER: You think the shared
25 governance policy was respected with respect to affirmative
26 action?

27 DR. DEL JUNCO: Well, Senator, let me just say
28 that I know that there are a lot of people feel that the shared

1 governance was violated because some people interpret that
2 shared governance means consensus.

3 I mean, I personally believe that we did not
4 violate it, that we heard their communication.

5 CHAIRMAN LOCKYER: I'm just making sure I
6 understand your view on this.

7 It wasn't violated in the case of affirmative
8 action policy, but it was with respect to the special admits?

9 DR. DEL JUNCO: Because the special admit issue
10 was never considered.

11 CHAIRMAN LOCKYER: I understand.

12 Senator Ayala.

13 SENATOR AYALA: One more question.

14 The U.S. Supreme Court ruled in 1982, that was 15
15 years ago, Tyler vs. Doe, that undocumented children are
16 entitled to a public education because they are in this country
17 through no fault of their own.

18 As a result of this 1982 decision, Proposition
19 187 appears to be unconstitutional on its face.

20 You were the driving force for that proposition.
21 Why would you, a long standing member of the UC Board of
22 Regents, support an unconstitutional denial of public education
23 to an estimated 300,000 children in California?

24 Now, I have the Constitution copy, a copy right
25 in front of me. I'm not an attorney, but I tell what it is says
26 under Amendment 14, Section One. It says that, "All persons
27 born or naturalized in the United States ..." all persons born.
28 It doesn't say that the parents have to be legal or illegal,

1 moral or immoral. It says if they're born here, they are
2 full-fledged citizens, entitled to all the benefits that a
3 citizen should receive.

4 Why would you support a proposition that's
5 unconstitutional on its face?

6 DR. DEL JUNCO: Senator, I don't want to -- I'm
7 not an attorney either, but let me just say this to you.

8 A child that is born in the United States is a
9 citizen.

10 SENATOR AYALA: You bet.

11 DR. DEL JUNCO: And 187 does not deprive them of
12 that citizenship. And 187 does not take from that citizen the
13 right of education.

14 CHAIRMAN LOCKYER: You're wrong.

15 SENATOR AYALA: Didn't Prop. 187 deny that?

16 DR. DEL JUNCO: Not if he's a citizen.

17 CHAIRMAN LOCKYER: You're wrong. That's not --

18 DR. DEL JUNCO: If I'm wrong, I stand corrected.
19 But that was my understanding, and honestly, my understanding.

20 CHAIRMAN LOCKYER: That's what the dispute's
21 about. That's what the dispute is about.

22 The Governor's view is, somehow, if the parent
23 got here illegally, the child should be denied educational
24 services. It clearly violates --

25 DR. DEL JUNCO: Born here.

26 CHAIRMAN LOCKYER: Yes. It clearly violates not
27 just the words, the plain meaning that Senator Ayala, as one of
28 our better non-lawyers --

1 SENATOR AYALA: Let me finish what else it says.
2 And I'll repeat, "All persons born or naturalized in the United
3 States and subject to the jurisdiction thereof are citizens of
4 the United States and of the state in where they reside."

5 Why would you deny these people, knowing that
6 they are legally entitled to that? Their parents may not be,
7 but they're born here. They're full-fledged citizens.

8 DR. DEL JUNCO: I respectfully submit that you
9 are 100 percent right, and my understanding was that the
10 children that they brought here from other countries --

11 SENATOR AYALA: No, we're not talking about
12 those. We're talking about those that are born here in this
13 country.

14 DR. DEL JUNCO: My understanding --

15 SENATOR BRULTE: Let me clarify this.

16 Senator Ayala, your question dealt with Tyler vs.
17 Doe, which dealt with undocumented children. Children who are
18 born in this country are citizens. They are not undocumented.
19 The Tyler decision did not, in fact, deal with that issue.

20 SENATOR AYALA: The children born in this country
21 from undocumented citizens --

22 SENATOR BRULTE: Children born in this country
23 from undocumented citizens are citizens under the U.S.
24 Constitution, and they have every right and privilege of
25 citizenship.

26 The Tyler decision dealt with undocumented
27 children. Those are children who are not born in this
28 country.

1 CHAIRMAN LOCKYER: No, no. Children without
2 documentation that are in public schools in Texas. It's
3 factually different.

4 DR. DEL JUNCO: I respectfully submit that my
5 understanding was that anybody --

6 CHAIRMAN LOCKYER: We understand what your --

7 DR. DEL JUNCO: -- that anybody who was born here
8 was an American citizen, and that 187 did not apply, so much
9 that they talked about introducing Constitutional amendment that
10 would take away from those children the right of citizenship.
11 Even that discussion took place.

12 SENATOR AYALA: It would take a change to the
13 Constitution to do that.

14 DR. DEL JUNCO: To do that.

15 SENATOR AYALA: Why were you involved in denying
16 them that --

17 DR. DEL JUNCO: I am not for this. I am not for,
18 and have never been for, denying a young child, born in the
19 United States of America, or born elsewhere from an American
20 citizen, the right of citizenship. I've never supported that,
21 and I would never support it.

22 SENATOR AYALA: Didn't Proposition 187 deal with
23 this subject matter?

24 DR. DEL JUNCO: No, it didn't.

25 SENATOR AYALA: What did it do?

26 DR. DEL JUNCO: It dealt with those children who
27 came to the United States from illegal -- illegal citizens or
28 undocumented workers.

1 SENATOR AYALA: Those who are born in this
2 country --

3 DR. DEL JUNCO: They were citizens.

4 SENATOR AYALA: -- whether the parents are
5 illegal or not, are full-fledged citizens?

6 DR. DEL JUNCO: Absolutely, and 187 did not --
7 and you forgive me, Senator. I am going to look it up, and I
8 will stand corrected, but my understanding is that 187 did not
9 deal with American citizens, and those children are American
10 citizens.

11 SENATOR AYALA: It provides dilemma for the
12 federal government, because how can the parents return to their
13 country of origin and take with them a citizen of this country?

14 DR. DEL JUNCO: I agree with you 100 percent. I
15 have no contention, and I would never support it.

16 SENATOR AYALA: I have no more questions.

17 CHAIRMAN LOCKYER: Senator Brulte.

18 SENATOR BRULTE: Just for the record, if you had
19 to point to one, or two, or three things you believe you've
20 accomplished in your tenure as a Regent, what would they be?

21 CHAIRMAN LOCKYER: Good question.

22 DR. DEL JUNCO: I'm extremely proud of having, in
23 spite of everything, to have been elected Chairman of this Board
24 unanimously, and that includes students, and that includes
25 alumni, and faculty, twice, as late as last Friday.

26 I think my contributions have been particularly
27 in the medical field. We have gone through a horrendous crisis
28 where every one of our medical centers, which, by the way, are

1 primarily very important for our medical schools, were almost
2 going into bankruptcy. Today we see UCLA projecting a \$40
3 million profit. San Francisco itself projects a profit over
4 \$20 million.

5 I don't have to tell you people about the success
6 of our UC Davis in Sacramento. We have turned this around in a
7 market place that would be very difficult. I have been the lead
8 person, not only in advising my fellows, but educating my fellow
9 Regents in the whole process, and how complex it is.

10 I am very proud ever having gone through the
11 budget crisis at a time in which we had a \$400 million deficit,
12 and we were able to cut in the amount of over \$400 million over
13 and above the \$100 million that we got from tuition fees.

14 And the most important thing is that we did not
15 lose one single student.

16 I am very, very proud of my contribution on the
17 tenth campus. Sure, we could not proceed ahead with the tenth
18 campus because of the budget crisis. But I can assure you that
19 the tenth campus is a very important issue for the University.
20 And if I ever have a vision for this school, it is the tenth
21 campus, because it will access for the young men and women in
22 the valley, San Joaquin Valley, access to the UC system. And
23 working with the state, the University of California state
24 schools, we can work a plan.

25 I think these are very important. And I did work
26 very hard with then-Regent Kolligian, who was just terminating
27 his 12 years.

28 These are issues that are very important. These

1 are what we should be addressing. And like I said, ladies and
2 gentlemen, if you don't believe me that I am going to do all
3 these things that I'm talking, my appointment is not due until
4 March of next year. Give me a chance. Let me see if I complied
5 with your request and with the request of Brulte.

6 I have been actively pursuing these issues that
7 you ladies and gentlemen are talking about. I bring at the
8 table at this time great experience of 12 years at a time where
9 this issue of the medical centers and our medical schools is a
10 very serious issue to this University.

11 And I believe that the record will show if you go
12 through the minutes that I have brought these issues to the
13 table. The very issue that the Senator talked about concerning
14 the preferences for certain people. This was not put away.
15 When I was requested to put it in the agenda, I put it on the
16 agenda.

17 The issue concerning affirmative action is on the
18 agenda for September. We are not running away from the very
19 issues which are troubling this institution.

20 CHAIRMAN LOCKYER: Doctor, I'd like to ask you a
21 couple questions. First, looking at your resume, it's quite
22 extensive and impressive. You've had numerous accomplishments
23 in a variety of fields.

24 I'm trying to account for some years, from the
25 late '50s to the late '60s. Where were you working then?

26 DR. DEL JUNCO: I came to this country in 1949.
27 And I was an intern at Hollywood Presbyterian Hospital, then
28 later took my residence at the Queen of Angels Hospital.

1 Then I went to the University of Pennsylvania at
2 graduate school, and upon finishing, I joined the United States
3 Army, and I was Chief of Surgery at Camp Hanford Army
4 Hospital.

5 CHAIRMAN LOCKYER: That was '57?

6 DR. DEL JUNCO: In '57, I came out, then I went
7 into private practice.

8 CHAIRMAN LOCKYER: So private practice started
9 then.

10 DR. DEL JUNCO: And it was solely in private
11 practice, and it was like ten years later when I became
12 involved --

13 CHAIRMAN LOCKYER: You started your own firm?

14 DR. DEL JUNCO: My own office. I've always been
15 by myself. I've never had a salary. I've never had a contract
16 from anybody. I don't have Medi-Cal contracts.

17 Even -- everybody thinks because I've been
18 involved in politics --

19 CHAIRMAN LOCKYER: What do you mean, you don't
20 have Medi-Cal contracts?

21 DR. DEL JUNCO: I don't have. I take Medi-Cal
22 patients.

23 CHAIRMAN LOCKYER: Oh, you do?

24 DR. DEL JUNCO: Of course, but I don't -- you
25 know, there is capitations, contracts, and there's a number of
26 contracts that doctors have. I don't even have any of those.

27 CHAIRMAN LOCKYER: So, from '57 or 8, you were in
28 you private practice?

1 DR. DEL JUNCO: That's right.

2 CHAIRMAN LOCKYER: What we see is '66 to present
3 as physician and President of Tirso Del Junco, M.D.,
4 Incorporated.

5 Is that a later phase?

6 DR. DEL JUNCO: Well, that's an excellent
7 question.

8 What happened was this. I became involved in the
9 first race for Governor Ronald Reagan. When he got elected, I
10 was appointed Member of the Board of Medical Examiners.

11 It was at that time that professional
12 corporations were approved. The Board of Medical Examiners was
13 ordered to come up with the regulatory process to cover
14 professional corporations.

15 Subsequent to that --

16 CHAIRMAN LOCKYER: That's when you incorporated?

17 DR. DEL JUNCO: I incorporated my practice.

18 CHAIRMAN LOCKYER: But your practice existed in
19 the years before that.

20 DR. DEL JUNCO: That's right.

21 CHAIRMAN LOCKYER: Just not incorporated.

22 DR. DEL JUNCO: It was not possible in the State
23 of California to incorporate until 19 -- I'm going to say
24 something like '68 or '67.

25 CHAIRMAN LOCKYER: That's when you did that.

26 Medical officer Cuban Army of Liberation, '61.
27 Did you leave your medical practice then?

28 DR. DEL JUNCO: Well, I never thought that it was

1 going to come out at this hearing, but I did. Many of my
2 professors, and many of the people who had gone to the Olympic
3 Games with me, representing Cuba, way back in 1949, were
4 involved in the Cuban Army of Liberation.

5 My professors called me and asked me would I join
6 them. And I was one of the surgeons that was going to the Bay
7 of Pigs invasion.

8 CHAIRMAN LOCKYER: Did you go, or just in
9 Florida?

10 DR. DEL JUNCO: I was in Florida and cancelled on
11 Wednesday afternoon, when President Kennedy cancelled the
12 invasion. Then I returned to practice, but I did close my
13 office for that purpose.

14 CHAIRMAN LOCKYER: So, you went, but just for a
15 brief time.

16 DR. DEL JUNCO: That's right.

17 CHAIRMAN LOCKYER: There's a similar sort of
18 diplomatic, I guess would be the word, diplomatic experience
19 with respect to Nicaragua?

20 DR. DEL JUNCO: There is in the Catholic Church
21 an organization called the Knights of Malta. And I am a member
22 of the Knights of Malta and have been for many, many years.

23 The Knights of Malta has embassies all over the
24 world. And I was designated as an ambassador to Nicaragua, and
25 I represented that until the downfall and the Marxist takeover.
26 Then I resigned as ambassador because it was very difficult for
27 me.

28 CHAIRMAN LOCKYER: You were there prior to the

1 Santanistas?

2 DR. DEL JUNCO: That's right. When the
3 Santanistas came into office, I felt that I could not sustain
4 that.

5 CHAIRMAN LOCKYER: What did you do as a Knight?

6 DR. DEL JUNCO: I would raise funds, you know,
7 particularly -- by the way, we have a hospitality organization.
8 We are primarily involved in Germany and in France and here with
9 hospital care.

10 There's a military portion of that, all the
11 soldiers of the Vatican belong to the Knights of Malta.

12 CHAIRMAN LOCKYER: That was another one of your
13 community services.

14 I don't want to debate the affirmative action
15 philosophy. I think we all know what our respective positions
16 are there.

17 But I do appreciate hearing you comment a little
18 on just how it evolved. When did the issue first come to your
19 attention? I know the conclusion is July 20th, 1995. That was
20 when the vote occurred. So, two years ago, basically, was
21 when --

22 DR. DEL JUNCO: Senator, I have a very great
23 personal conflicts concerning this matter, and it dates much
24 before that.

25 I'm married to a Mexican young woman then. My
26 wife is of Mexican ancestry. I'm of Cuban ancestry.

27 When the moment came for my children to go to
28 college, it was obvious that if they say I'm Mexican-American,

1 at UCLA they will be treated one way. If they say I'm
2 Cuban-American, it was treated another way.

3 As it turned out to be, I sent to my two sons to
4 go to college in Guadalajara, because I didn't want to use my
5 influence in talking about special treatment and so on. And all
6 went to Guadalajara.

7 But we have dealt with that question. I have 14
8 grandchildren, some of them that are Mexican-Americans and
9 Cuban-Americans.

10 And I cannot in good faith vote for a process
11 that separates our family.

12 CHAIRMAN LOCKYER: I understand.

13 Doctor, I may not have asked you carefully
14 enough.

15 On July 20th, there was this vote before the
16 Board of Regents. I assume there was a lot of discussion in the
17 couple of weeks, I guess, before that, or maybe a couple of
18 meetings before that.

19 I was just hoping you would help explain what was
20 the background, other than the philosophy that you mentioned in
21 your own personal experience? When did it first come up? Was
22 it a year ahead?

23 DR. DEL JUNCO: Yes, it was a year before.

24 CHAIRMAN LOCKYER: So, about a year.

25 DR. DEL JUNCO: About a year, and then President
26 Pulderson is the one that ordered reports, and we were getting,
27 almost on a monthly, basis reports about how this issue was
28 being handled, and reports of -- concerning more specifically

1 the issues of racial participation.

2 I kept asking this question about
3 Mexican-American versus Latinos, what is the difference between
4 a Chicano and Latino.

5 Finally, I think it was in the month of May that
6 I knew the answer that was being denied. In the month of May
7 they say, yes, it is true! There is a differential between a
8 Chicano and from Nicaragua.

9 Senator, I just cannot accept that a kid sitting
10 in East Los Angeles of Nicaraguan families is going to be
11 treated different than the same poor child of a Mexican family.
12 I do not believe that morally I can live with that.

13 And this is why I voted the way. Nobody asked
14 me to vote the way I did.

15 And if I made a mistake, it's my mistake.

16 CHAIRMAN LOCKYER: No one asked you? No other
17 Regent ever talked to you about it?

18 DR. DEL JUNCO: No. What I'm trying to say is,
19 nobody asked me to vote this way. And I say that because it's
20 been alleged that I was following the guidelines set by Governor
21 Pete Wilson.

22 CHAIRMAN LOCKYER: You didn't care what his
23 opinion was?

24 DR. DEL JUNCO: Of course I do, but it was not
25 his opinion that really made me make the final decision of
26 voting one way or another.

27 CHAIRMAN LOCKYER: Let me ask you to reconcile
28 these acts or comments.

1 July 20th, '95, is the meeting of the Regents
2 where you adopt the new policy on affirmative action, or
3 eliminate that.

4 Now it turns out exactly the same day, July 20th,
5 '95, there's an article in the Cleveland, Ohio newspaper. Now,
6 those are not uncommon. They're in the Washington Post, the
7 L.A. Times, other places, commenting or reporting on the fact
8 that, as an officer in the Postal Service, that you had at
9 various times expressed the view that African-Americans were
10 over-represented on the Postal Service, and that Hispanics were
11 under-represented.

12 And you say in the Cleveland paper, "These
13 people," meaning blacks, "they're now doing to the Hispanics
14 what the whites did to them."

15 Now, I don't want to get into a lot of collateral
16 debates about the Postal Service or whatever, but it just seems
17 to me to be difficult to understand how, on one day, when you're
18 voting to eliminate race-conscious admissions and employment
19 policies at UC, you're wanting to have race factored into
20 employment at the Postal Service.

21 Am I missing something?

22 DR. DEL JUNCO: I think you are, Senator.

23 CHAIRMAN LOCKYER: Tell me what it is.

24 DR. DEL JUNCO: The issue of discrimination, the
25 issue is an open policy. The issue is an opportunity for
26 everybody.

27 Right now, I have a study on the Postal Service
28 that we're paying \$850,000 to address this issue. The blacks

1 might have 64 percent of the employment in Los Angeles, but they
2 only have 3 percent of procurement. Is that fair?

3 Now, because I voted against or in favor of 209,
4 am I now, I have to commit myself to allowing for that
5 discrimination against the blacks?

6 My point --

7 CHAIRMAN LOCKYER: No, wait. You're twisting it
8 around. You're condemning race-conscious policies at UC, while
9 you are urging the same kinds of policies in the Postal Service.

10 DR. DEL JUNCO: I am not urging a policy of that
11 kind. What I am urging is an open process, access to the
12 system.

13 This is the whole problem, that because you are
14 against racially driven priorities, you know, that you now have
15 to accept every bit of discrimination down the line.

16 I think we got to stand loud and clear against
17 the discriminations that exist all over this country.

18 However, having said that, that does not mean
19 that I'm endorsing any procedures and methods that are driven
20 exclusively by race. If that's the case, in this particular
21 newspaper that talked about it, and they called me.

22 I believe that you have to have an open policy in
23 Los Angeles where there's more than 50 percent of the Hispanics.
24 That doesn't mean I'm closing the doors on blacks. Whoever
25 interprets it that way is doing me a very, very disservice.

26 I am for an open policy of employment and
27 procurement, as well as job improvement.

28 CHAIRMAN LOCKYER: It does seem to --

1 DR. DEL JUNCO: I'm sorry, but I see your point,
2 Senator.

3 CHAIRMAN LOCKYER: You're saying that there is
4 evidence of blacks discriminating against both Hispanics and
5 whites in the Postal Service?

6 DR. DEL JUNCO: I'll say this, why I made that
7 statement. And that statement, in my opinion, has been, again,
8 misinterpreted.

9 The point is that there are some Post Offices in
10 which an individual who happens to be black, he controls the
11 admission process to the working place. Therefore, he plays
12 favoritism.

13 In this particular case, the guys who are at risk
14 happen to be Hispanics, like in Los Angeles, where only 16
15 percent of the employees are Hispanics.

16 Now, does that mean you're going to fire a black?
17 Does that mean that you're going to do anything about the
18 blacks? Absolutely not. I think that the blacks have done a
19 great service to the U.S. Postal Service. And the history of
20 service goes back 50 years.

21 Now, that does not mean that we don't have to
22 have an even playing field for everybody. It's very hard to
23 articulate this, and I've been trying to articulate it for a
24 long, long time.

25 And my policy is an even playing field for
26 everybody.

27 CHAIRMAN LOCKYER: Let me move on. I think I
28 understand your philosophy. It's hard to square with all the

1 public comments.

2 You mentioned to us that your view about shared
3 governance means you have to consult but not necessarily agree
4 with the faculty, and so on.

5 Now, would you tell me how that idea squares with
6 the Regents policy, that is, what I understand is called
7 Standing Order 105? I guess you have to stand to talk about
8 this order.

9 The order is, the Academic Senate shall determine
10 the conditions for admission, for certificates, and for degrees
11 other than honorary degrees.

12 It doesn't qualify it.

13 DR. DEL JUNCO: Because that is a delegation of
14 the Board of Regents to the President, and the President has
15 delegated that.

16 CHAIRMAN LOCKYER: In effect, you took it back?

17 DR. DEL JUNCO: That's right.

18 Let me also say on shared governance, that almost
19 99 percent of the time, you know, the shared governance is
20 exactly what it is says.

21 CHAIRMAN LOCKYER: That you do agree.

22 DR. DEL JUNCO: That we do agree, and we go the
23 extra mile to agree. In fact, if you go back over the last 10
24 years, there is not too many occasions where there has been a
25 disagreement. I think it should be that way, by the way.

26 CHAIRMAN LOCKYER: You've got a dozen years in
27 serving as a Regent. How many presidents did you see, four?

28 DR. DEL JUNCO: Yes, Gardener -- three.

1 CHAIRMAN LOCKYER: Three presidents.

2 Would you rank one as superior, you know, the
3 most outstanding of the three?

4 DR. DEL JUNCO: That would be extremely
5 difficult, because, you know, I have an excellent President
6 right now, and he's doing an outstanding job. And everyone
7 within his own parameters, I think, have done a great service to
8 the University of California.

9 CHAIRMAN LOCKYER: There seems to be the opinion
10 often expressed that the last couple of years has been divisive
11 and controversial around the University.

12 Is there in your view, looking back, anything
13 that could or should have been done to try to avoid some of the
14 controversies, or handle them differently?

15 DR. DEL JUNCO: You know, going back to, I think,
16 what Senator Ayala was talking about, about this question about
17 fees and all the rest. Certainly the issue of fee among
18 students created a great controversy. Here is the faculty
19 agreeing with the Regents to do that.

20 The budget crisis, which brought about the
21 resignation of some very, very senior, outstanding professors.

22 This all brought about a tremendous constraint,
23 the \$300 million of cuts that had to be taking place. This
24 created a tremendous amount of conflict. This issue come before
25 the Board. The Board became divided.

26 Then finally came this issue of SP 1, SP 2, which
27 I think was the final blow to the whole thing.

28 CHAIRMAN LOCKYER: What could we have done

1 different, anything?

2 DR. DEL JUNCO: Well, I'll answer that with a
3 question.

4 What could we have done different so the state
5 would have not gone through the budget crisis that we went
6 through four, five years ago?

7 I think if you go back, the whole thing emanates
8 from there.

9 CHAIRMAN LOCKYER: Any last comments, questions
10 from Members? Senator Hughes.

11 SENATOR HUGHES: I'm intrigued by your Postal
12 Service. I think you found out some very interesting
13 information in that.

14 Are you encouraging members of the Hispanic
15 community to apply for Postal jobs?

16 I notice that in that report that you received,
17 the reason that many of them were disqualified, because of lack
18 of fluency in English. And especially, I think a postal job is
19 a very difficult one, even reading the poor handwriting. It's a
20 wonder any of us get our mail...

21 But, you know, what are you doing on that score,
22 because you are concerned that not enough Hispanics hold the
23 jobs in the Post Office? And then you serve on that commission
24 until the year 2000.

25 Tell me what you're doing to see that they apply
26 for those jobs.

27 DR. DEL JUNCO: Senator, I think that the best
28 person to answer that question is the Postmaster of the Los

1 Angeles that is here.

2 SENATOR HUGHES: No, I don't want him to answer,
3 because he's not up for confirmation. You are.

4 DR. DEL JUNCO: But you see, he is the one who's
5 implementing all those rules of outreach. It's nothing else but
6 outreach, going out there and publicizing.

7 In fact, he was going to testify today about that
8 issue.

9 SENATOR HUGHES: Let me tell you the reason that
10 a lot of blacks got into the Post Office, because that's one
11 place that they accepted them for employment.

12 DR. DEL JUNCO: I am aware of this.

13 SENATOR HUGHES: It started basically in
14 Washington, D.C. because the black population was large in that
15 city.

16 And so, if you see someone who is successful,
17 then you try to follow in their footsteps.

18 So, I would imagine that many Hispanic students
19 will try to go to medical school because they know of Dr. del
20 Junco.

21 DR. DEL JUNCO: Absolutely.

22 SENATOR HUGHES: Who is a very prominent
23 physician in their community.

24 So, it's role modeling, right?

25 DR. DEL JUNCO: Senator, the example of the
26 blacks in the Post Office is extraordinary. That's all I can
27 tell you, and is an example, for the Hispanics must take and
28 must apply themselves, be assertive, take the examinations and

1 follow through.

2 However, I want that open door policy for
3 everybody. I'm going to tell you, I'm going to discourage with
4 a piece of the action that the blacks are getting when it comes
5 to procurement in Los Angeles, very bad.

6 SENATOR HUGHES: A piece of the action that
7 they're qualified to get. They're not getting a piece of the
8 action because anybody gave them a gift.

9 DR. DEL JUNCO: It isn't a question of giving.

10 SENATOR HUGHES: And let me tell you another
11 things. Many of those blacks who historically served in the
12 Post Office were college graduates. Many of the blacks who
13 became pullman porters were college graduates. And they got
14 these jobs because they were over-qualified.

15 I just give you that information because I'm sure
16 you don't have it.

17 DR. DEL JUNCO: Let me just -- I did not -- you
18 misinterpreted my question, Senator.

19 Please, I am talking about procurement. I am not
20 talking about jobs.

21 SENATOR HUGHES: I'm talking about procurement,
22 to the businesses that provide goods and services. Not all of
23 the blacks have those.

24 DR. DEL JUNCO: But my point to you is that we
25 who are in position of authority must see that those
26 procurements must be put out to bid, and legitimate bids, and we
27 have to look at the process. That's what I'm talking about.

28 Many of those contracts have been in place for

1 years and years. They've not been put out to bid. That's what
2 I'm talking about.

3 Yet, when I make that presentation, people think
4 that I am fighting these people. I'm not. What I'm trying to
5 do is to help.

6 CHAIRMAN LOCKYER: It's amazing, because Richard
7 Polanco probably has his contracting with small and
8 minority-owned and women-owned businesses at the top his list.
9 And for you two not to be tracking is sort of --

10 DR. DEL JUNCO: And this is my position. I have
11 currently a study going on there, U.S. Postal Service in Los
12 Angeles, Seattle, Dallas, Texas, that addresses this very issue,
13 because the future of these minorities is to have access.

14 CHAIRMAN LOCKYER: It's irrelevant to your
15 circumstance, but we were benefitted in Alameda County by Lionel
16 Wilson's serving on the Superior Court for a long time, and when
17 he retired, Mayor of Oakland.

18 He became a lawyer because he couldn't get a job
19 in the Post Office because of the discrimination against blacks
20 at that time. So he said, well, I can't get a job there; I'm
21 going to go to law school.

22 Of course, he wound up being a judge and lots of
23 fine things. Unrelated.

24 Let me ask you, coming up next meeting, domestic
25 partnerships is on the agenda at the Regents. Do you have any
26 settled opinion about the issue?

27 DR. DEL JUNCO: It's coming up again. It's been
28 put on the agenda. It's a controversial issue.

1 I'm going to hear everybody. The Lieutenant
2 Governor has requested that in this presentation there will be
3 the economic factors be put on the table.

4 I personally want to hear everybody out. This is
5 a very controversial issue, I don't mind telling you, that if
6 we're going to go this route --

7 CHAIRMAN LOCKYER: I'm asking because I'm trying
8 to find on the what direction you're going to go?

9 DR. DEL JUNCO: My direction is going to be, if
10 we're going to go the direction, we are going to open it up for
11 both heterosexuals, and same sex, and for everybody. I want to
12 see the factors. I want to see the economic impact on the
13 University.

14 CHAIRMAN LOCKYER: Mostly, Doctor, I understand
15 that it's mostly elderly single people that are male, female.

16 DR. DEL JUNCO: That's right.

17 CHAIRMAN LOCKYER: That wind up living together
18 and losing health benefits. It's not so much gay and lesbian.

19 DR. DEL JUNCO: That's exactly right.

20 CHAIRMAN LOCKYER: And you're talking about both.

21 DR. DEL JUNCO: That's right.

22 CHAIRMAN LOCKYER: But no settled opinion yet?
23 Are you still listening --

24 DR. DEL JUNCO: No, but I have a strong, you
25 know, of course, if this becomes extremely costly for the
26 University, and have a tremendous fiduciary fiscal impact on the
27 University --

28 CHAIRMAN LOCKYER: Do you think it will be

1 costly?

2 DR. DEL JUNCO: This is why the Lieutenant
3 Governor has asked for the report.

4 CHAIRMAN LOCKYER: The UCSF-Stanford merger.
5 Separate from --

6 DR. DEL JUNCO: You said it already, made your
7 prediction.

8 CHAIRMAN LOCKYER: No, I'm only reading the tea
9 leaves. I'm not recommending it or anything.

10 But I want to ask about the votes on this new
11 board. There's seven and seven, basically. Seven from UC,
12 seven from Stanford, then there's three independents?

13 DR. DEL JUNCO: Yes.

14 CHAIRMAN LOCKYER: One, I guess, has been
15 appointed, Mr. Helman. Now, who is he?

16 DR. DEL JUNCO: Mr. Helman is a senior partner
17 of a very, very prominent firm, a security firm, investment
18 firm, who was asked by the President to do an independent
19 study. There's some questions -- in that independent study
20 there's a question.

21 Let me just say to you that I have been the
22 person who have spoke repeatedly about the issue of governance.
23 And when I talk about governance, I'm talking about the presence
24 of Regents in it.

25 There's only three Regents present. However,
26 more important than that, we have an executive committee which
27 is very, very powerful in that organization who has been
28 delegated tremendous amount of responsibility. And there's only

1 one Regent.

2 In fact, I complained about it, and they made him
3 the chairman of the executive committee.

4 But the Stanford has a controlling in that. They
5 tell me they're going to change that.

6 So, I am concerned about that. I am also
7 concerned about the --

8 CHAIRMAN LOCKYER: On the executive committee?

9 DR. DEL JUNCO: Yes.

10 I am concerned of the public records issue, the
11 disclosure. What kind of information are the Regents going to
12 receive? Are they going to be able to have a privilege to
13 anything and everything?

14 I think the Board of Regents should have access
15 to every bit of information because they're 50 percent partners
16 on this issue.

17 I also want to find out, because we're going to
18 lease our employees to this institution, what are risk factors
19 for us?

20 You know, I'm the person who asks all these
21 questions. And I'm the person who brings these questions to the
22 table.

23 Now, when the vote was taken to proceed in
24 developing this whole program, yes, I voted for it. After all,
25 I'm not an obstructionist. But I want you to know that I am
26 going to wait for the presentation.

27 We're going to have a presentation in the month
28 of July -- in the month of September -- and probably there will

1 be a vote taken. But it's going to be -- in effect, I'm going
2 to do what is best for the University.

3 The medical schools are state. This is the --
4 our medical school in San Francisco is a pre-eminent medical
5 school with an R&D, research and development, that is second to
6 none in the country. And I will -- I want to find out what's
7 going to happen to that research. I want to happen -- I want to
8 know what's going to happen to that intellectual property.

9 Where is it going? We've had intellectual
10 property and research going on the ginny, and you know, now for
11 15 years. Are we just giving it away?

12 These are the questions that I'm asking.

13 CHAIRMAN LOCKYER: Those are good questions.

14 Now, last fall, the Audit Committee conducted a
15 discussion of the issue. I guess the chief counsel subsequently
16 ruled that it was a violation of the Brown Act, that it should
17 have been open to the public and was not.

18 At least the student Regent believes that you
19 were antagonistic to his disclosure that the meeting was
20 conducted and conducted illegally. And his quote is that you
21 told him that there was some feeling that he should be made to
22 resign from the Board because his actions in exposing the
23 illegal meeting had embarrassed the Board.

24 Is that accurate?

25 DR. DEL JUNCO: That is true, what he's telling
26 you.

27 I got a phone call from two Regents. I was
28 upset --

1 CHAIRMAN LOCKYER: This wasn't your own view?

2 DR. DEL JUNCO: No, I mean, but I want you to
3 know that I was upset with him because, a, he knew that counsel
4 had been asked, and counsel had erroneously advised the Board.

5 But I was upset because I felt that as the
6 Chairman of the Board, he should have come and talked to me, and
7 tell me, Doctor, I think that is an abuse, or whatever.

8 If I had failed to make a decision, then he
9 should have proceeded. Instead of doing that, he went to the
10 press. I felt that he violated a principle of communication.

11 CHAIRMAN LOCKYER: Is that why he wasn't on the
12 committee to select --

13 DR. DEL JUNCO: Absolutely not.

14 The reason that I did not select him is because
15 as a result of this whole friction, you know, he had access to
16 all the students. He had access to all the members that were
17 being proposed. And I felt that he did not bring anything to
18 the table constructive.

19 And I was trying -- it's just like when I
20 appointed my search committees in Berkeley. I appointed a
21 search committee that I thought it was going to do the best. I
22 think that I told you that I was accused that I was trying to
23 stack the committee. And I wanted to stack it so much, that
24 Chancellor Bardow, who is a very strong anti-SP 1, SP 2, was
25 selected. And the same thing happened down in UCLA, which is
26 really, I think, speaks to my fairness as I manage --

27 CHAIRMAN LOCKYER: I don't think you'd find a
28 serious academic in the country that didn't disagree with the

1 Board on that.

2 DR. DEL JUNCO: Absolutely.

3 CHAIRMAN LOCKYER: So, you get some credit, but
4 you would have had to hire me. No, I guess I disagree, too.

5 You don't get a lot of credit --

6 DR. DEL JUNCO: The issue never came up in the
7 discussion, never was discussed, and it was never an
8 issue.

9 CHAIRMAN LOCKYER: Good.

10 DR. DEL JUNCO: We were selecting the best man
11 for that Institution.

12 CHAIRMAN LOCKYER: Good, or woman, as Senator
13 Hughes would like to amend that.

14 DR. DEL JUNCO: And we considered a lot of women,
15 too.

16 SENATOR HUGHES: A lot of women?

17 DR. DEL JUNCO: We considered a lot of women for
18 that job, too.

19 SENATOR HUGHES: A proportional share.

20 DR. DEL JUNCO: Of course, and rightfully so.

21 SENATOR HUGHES: May I ask, recently Ward
22 Connerly suggested that we should pursue race-based outreach
23 programs in order to bring some minority applicants to UC.

24 Do you agree with him on that? What's your
25 opinion of this suggestion?

26 DR. DEL JUNCO: I believe that we should go out
27 and be advocates. I believe that we should try to recruit.

28 But I do not believe it should be driven by race.

1 I think we can go down to Southeast Los Angeles and recruit to
2 whatever is there. If they happen to be black --

3 SENATOR HUGHES: There will be Hispanics if you
4 go to Southeast Los Angeles because that's the population.

5 DR. DEL JUNCO: Or South Central.

6 SENATOR HUGHES: And that's Hispanic. You have
7 to count -- like the Drew School --

8 DR. DEL JUNCO: Which is 75 percent patients are
9 Hispanics.

10 SENATOR HUGHES: That's right.

11 DR. DEL JUNCO: Senator, my point is that I do
12 not believe it should be driven by race. It should be driven by
13 needs.

14 SENATOR HUGHES: So, you disagree with Regent
15 Connerly?

16 DR. DEL JUNCO: If that's the case.

17 SENATOR HUGHES: On what he is suggesting?

18 DR. DEL JUNCO: I don't know if he suggested that
19 or not. I don't want to put words in his mouth.

20 I believe that we can go into those districts, in
21 those communities, improve the standard of education, bring more
22 funds, recruit mentors, regardless of who's there. Does not
23 have to be driven by race.

24 SENATOR HUGHES: Economic circumstances?

25 DR. DEL JUNCO: Absolutely, very important.

26 SENATOR HUGHES: So, that would be more inclusive
27 than exclusive.

28 DR. DEL JUNCO: That's right.

1 CHAIRMAN LOCKYER: I think we may have
2 concluded. I'm not sure. Let me just take care of this
3 business.

4 Mr. Parsky and Preuss, this is taking longer than
5 expected. You may have noticed that both yourselves.

6 We're wondering what to do about it in terms of
7 scheduling. I guess if the gentlemen were able to stay here
8 this evening, we could meet first thing in the morning, if it
9 worked with people's schedules. Or, we could meet later in the
10 week.

11 I know you're both going to be out of the country
12 at different times in the next 30 days. I think I've run past
13 the attention span of myself.

14 MR. PARSKY: Senator, I certainly will be here
15 when asked.

16 CHAIRMAN LOCKYER: Does the morning work?

17 MR. PARSKY: Tomorrow morning would work, yes.

18 CHAIRMAN LOCKYER: If there are perhaps
19 witnesses, we can hear from them tonight briefly before, so that
20 they can leave. Then have the two of you with us in the
21 morning, if that works. I hope that would accommodate.

22 We didn't, frankly, think this would take as long
23 as it has. But we have found that Dr. del Junco is wordy. Is
24 he that way in the Regents meetings, too, Mr. Brophy? Is he
25 that engaged as he has been here in the Regents meetings?

26 MR. BROPHY: He's always enthusiastic, yes.

27 CHAIRMAN LOCKYER: Okay, I think we've concluded.
28 Thank you for your time.

1 Frankly, I guess perhaps by way of summation, I
2 will simply say that you're a very engaging person. And I think
3 we've had an opportunity to get a good look and feel for your
4 personality, philosophy, and experience.

5 I haven't reached any conclusion personally, and
6 we're not intending to vote today. We're going to just take all
7 the testimony today, and now some tomorrow, I guess.

8 But you've acquitted yourself well. I'm not sure
9 if anyone landed a punch, but if they did, you were able to keep
10 standing and keep punching back.

11 So, thank you very much, Doctor, for your time
12 with us.

13 DR. DEL JUNCO: Senator, I want to thank you, and
14 I want to thank all your colleagues. Certainly, your courtesy
15 is extremely appreciated.

16 CHAIRMAN LOCKYER: Thank you, sir. We'll
17 continue to talk. Good luck.

18 Okay, I want to make sure I get any witnesses
19 that would wish, like Senator Killea.

20 MR. BROPHY: I'm just going to say they're both
21 okay.

22 CHAIRMAN LOCKYER: All right, Brophy's going to
23 say you're both okay. You can leave, unless you want to add
24 something additional, Regents.

25 MR. BROPHY: This will be two minutes and no more
26 for me.

27 CHAIRMAN LOCKYER: I want to make sure anyone who
28 can't be here tomorrow will have an opportunity.

1 Senator.

2 SENATOR KILLEA: Thank you. This is my first
3 appearance back here, and I only came back because I did have a
4 purpose.

5 I think, as most of you know, that I don't speak
6 unless I have something to say, so this is my situation today.

7 Actually, as the Chairman knows, and I think
8 maybe some of the other Members, I am a very intense and
9 persistent advocate for higher education. And certainly that
10 has not changed. In fact, I'm on the California Citizens
11 Commission for Higher Education, along with, co-chaired by
12 Harold Williams, a former distinguished Regent, and John
13 Slaughter, the President of Occidental.

14 But to speak for Peter Preuss today, I have known
15 him personally for some years now. It's primarily through UCSD
16 and through the Alumni Association, and have a great deal of
17 respect for his veracity and integrity. I think he is an
18 outstanding person, and he is very anxious to see the University
19 do its best to educate all of the students who come to the
20 University.

21 I think I can say without any hesitation that he
22 is -- that I can have my trust and confidence in him as a UC
23 Regent.

24 CHAIRMAN LOCKYER: How many years have you known
25 him?

26 SENATOR KILLEA: About eight or nine, something
27 like that.

28 SENATOR AYALA: Which one are you speaking

1 for?

2 SENATOR KILLEA: Peter Preuss, and I don't know
3 the other gentleman personally, but I do know Peter, and he's
4 been a very important part of our San Diego community. Always
5 seems to be in there, pitching for important projects that
6 benefit the people of the city, as well as particularly the
7 students at UCSD. He's been very active there.

8 Thank you for your time.

9 CHAIRMAN LOCKYER: Thank you. It's nice to have
10 you back.

11 SENATOR KILLEA: It's nice to be here. I'll see
12 you again some day.

13 CHAIRMAN LOCKYER: Roy, do you want to add
14 something?

15 MR. BROPHY: Well, what the Senator said was my
16 views, too. Obviously, and I've known him about probably five
17 years. He served two years as an alumni Regent.

18 He brings to the Board, and I'll be saying the
19 same thing in a different area for the other candidate, he
20 brings to Board special expertise. He's been -- he's given
21 money, and he's worked in hospitals, worked in the management
22 and worked in the administration as a board members.

23 Right now it's something we critically need. We
24 need strong voices to offset what I think may be a great
25 disaster if we go ahead and form this merger.

26 But hospitals themselves, Irvine is no exception
27 with the egg transplants, we're having nothing but more
28 problems, although we're the largest, more problems than we

1 deserve.

2 But Peter Preuss is an excellent advocate and a
3 very acknowledgeable person in that area. I would appreciate
4 that.

5 Mr. Parsky is a very special person in another
6 area. As you probably know, the Treasurer's office handles
7 about \$40 billion in funds. And the \$40 billion is handled by
8 the Treasurer, who reports to the Regents.

9 It's been an area of concern to me. I've been
10 Finance Chairman my second year now. I was Chairman of the
11 Board before.

12 But since he's come aboard, he's formed an
13 oversight committee of Regents. He is the most acknowledgeable.
14 We've lost Harold Williams, as the Senator just said. We lost
15 Dean as well. But we don't have anybody that has the kind of
16 expertise, and believe me, I'm telling the truth, as Parsky.
17 That's his business, and we need somebody that can provide
18 oversight with the Regents as the only boss. Unless someone has
19 an oversight committee, they got a pretty easy boss. And it's a
20 fearsome project.

21 CHAIRMAN LOCKYER: This is the investment fund?

22 MR. BROPHY: Yes, the funds, and it includes all
23 of the retirement funds for all of the 180,000 some employees,
24 as well as the monies that they put in additional funds that
25 people put in that work for the University because they know of
26 the high return that the Treasurer's office has been able to
27 achieve.

28 That's all that I have to say.

1 CHAIRMAN LOCKYER: Thank you, Mr. Brophy.

2 I notice Senators Alpert and I believe Peace.
3 They can come back tomorrow. You can do it now if you
4 wish.

5 MS. MONTOYA: May I?

6 CHAIRMAN LOCKYER: Certainly.

7 MS. MONTOYA: I feel like I'm echoing Regent
8 Brophy, but it's true.

9 I'd like to speak for Regent Preuss's
10 enthusiasm.

11 CHAIRMAN LOCKYER: You'll probably have to
12 identify yourself again.

13 MS. MONTOYA: I'm Regent Thelma Montoya of the
14 the University of California.

15 I particularly wish to share with you my
16 enthusiasm for Regent Preuss's enthusiasm, in particular these
17 days for charter schools, which are becoming a big issue as a
18 means of enabling the University of California and others to
19 enhance the education in the K-12 systems.

20 CHAIRMAN LOCKYER: It got to be a mess in San
21 Diego.

22 MS. MONTOYA: But he's going to fix it, it's my
23 understanding, or he's part of the fix.

24 CHAIRMAN LOCKYER: He's a man of many
25 enthusiasms.

26 MS. MONTOYA: Exactly, but apparently he gets
27 them done, at least that's what I see.

28 I definitely echo Regent Brophy with respect to

1 Regent Parsky's expertise in the investment area. I'm one of
2 the those on the Investment Advisory Group. Recently, your
3 constituent is the Chair of that group, David Lee.

4 CHAIRMAN LOCKYER: His business is a constituent,
5 but his home, he lives in some fancy place in, I think, Senator
6 Sher's district.

7 But we're friends.

8 CHAIRMAN LOCKYER: You mean he did a bad job with
9 the Investment Committee that we needed Mr. Parsky to straighten
10 it out?

11 MS. MONTOKA: No, no, no. Regent Lee created
12 this oversight group. We have a new Treasurer, and we have
13 new -- a new person to articulate the concerns. And this
14 investment group is helping articulate the concerns.

15 And Regent Parsky is particularly helpful, of
16 course, in the area of venture capital.

17 CHAIRMAN LOCKYER: Thank you.

18 Other comment? And I guess we're going to meet
19 at 9:00 A.M. in this room.

20 Other people who would rather get on the record
21 now.

22 MR. PERRY: It'll be very brief.

23 I'm Hayden Perry. I'm a member of the Gray
24 Panthers.

25 You're suggesting changes in the construction of
26 the committee.

27 I think one important thing, it was set up very
28 early in California's history, and a major part of its

1 membership were ex-officio people. If you were Vice President,
2 or Vice Governor, you would be automatically on the Board. I
3 don't know just how many of that is, but that doesn't seem very
4 democratic to begin with.

5 CHAIRMAN LOCKYER: There's 26 of them, and six or
6 seven are ex-officios.

7 MR. PERRY: And the others are appointed.

8 I certainly think that among those should be the
9 Chancellors of each campus should be represented directly,
10 because they're the ones who are affected most.

11 I think most important, though, is the fact their
12 12-year appointment is far too long. Now they're going to
13 reappoint this present individual. He will have served 24
14 years.

15 CHAIRMAN LOCKYER: No, he only gets three more.

16 MR. PERRY: He only gets three more.

17 CHAIRMAN LOCKYER: So, 15 years.

18 MR. PERRY: Even 15 years. Let's start at 6
19 years as a maximum. That's almost any post is no more than 6
20 years, so let's start right there with that.

21 CHAIRMAN LOCKYER: Yes, sir.

22 MS. GONZALES: Senator Lockyer, my name is Alice
23 Gonzales. I think I've been before this Board on three or four
24 occasions.

25 And I had not intended to come up and speak
26 today, but in light of all that has been said and my
27 observations of what has been said or not been said, I wanted to
28 share with you and with the Members of the Rules Committee how I

1 feel, and who should serve on the Board, who should be Regents.
2 The qualifications for that individual, and what that person is
3 going to bring to the Board.

4 I think that all of the Regents, each unto his
5 own, brings a certain expertise and a life experience.

6 CHAIRMAN LOCKYER: We're not wanting for business
7 experience, however.

8 MS. GONZALES: And that experience should be --
9 and be brought to the Board by the advantages it may bring to
10 the system as a whole.

11 Now, I don't socialize with the Board of Regents
12 or their members, nor do they socialize and come to my home. We
13 just happen to be together on a Board that is there to serve a
14 purpose.

15 My bottom line has always been the students.
16 That's our product. That's what we should be concerned about.

17 But members of the Board do have, and I'm
18 speaking for your consideration and those members today, is that
19 because of who they are, that's how I view them, what they are
20 and what they bring to that Board.

21 I can see -- and I think Roy Brophy mentioned
22 Mr. Parsky and what he brings to the Board.

23 And I was on the Nominating Committee and asked
24 Mr. Parsky to be on that Audit Committee. And my reason for
25 that was because of his expertise. I have full faith and trust
26 that he knows what he's doing. I really don't.

27 When it comes to the management of that large
28 trust that is ours, the people of the State of California, I

1 think we need to have someone there who knows what's happening,
2 and can question not only the President and his staff, but also
3 our Treasurer and her staff, and what it's all about.

4 I've seen Gerry perform.

5 I don't know why I'm nervous. I've been here
6 before, and I'm not coming back.

7 CHAIRMAN LOCKYER: I'm trying to move us along.

8 MS. GONZALES: And with Peter, I've sat next to
9 Peter now -- well, next to Gerry and Peter. They're -- one sits
10 on one side of me, and one on the other. And I've watched Peter
11 not only had he was an alumni, and his contribution. And I know
12 what his contribution has been to the UCSF Hospital, and San
13 Diego, the University as a whole, but also his concern with the
14 charter schools and bringing kids in from the urban areas to
15 that.

16 So, I can tell you, he's a contributor not
17 because he wanted to get one of his children into school. He
18 only has one, and he's going to USC.

19 So, I just wanted to tell you --

20 CHAIRMAN LOCKYER: We can't blame him for the bad
21 choices of his kid, I guess.

22 MS. GONZALES: You can't. You have to look at
23 their qualifications. You have their backgrounds. You know who
24 they are, so that's the only thing I can say, is judge them by
25 their qualifications and what they may bring.

26 And thank you.

27 CHAIRMAN LOCKYER: Thank you very much.

28 MS. SABATINI: Unfortunately, I cannot wait

1 until tomorrow. I flew up from San Diego this morning and need
2 to be flying back tonight.

3 My name is Coleen Sabatini, and as of one week
4 and two days ago, I am an alumni or alumna of the University of
5 California. I graduated from UCSD on June 14th with a Bachelor
6 of Science Degree in Ecology, Behavior and Evolutionary Biology.

7 I am here today to speak about my experience
8 working this past year with Peter Preuss through my position as
9 the 1996-97 UCSD Undergraduate Student Body President.

10 Although I have known Peter Preuss for a few
11 years now, our working relationship really began a year ago,
12 when he was appointed to the Board of Regents. I believe it was
13 just few days later when he became the first and only Regent to
14 call the Student Presidents at UCSD to request a meeting with
15 us.

16 Regent Preuss, myself, and the Graduate Student
17 President met to discuss undergraduate and graduate education,
18 student issues and concerns, and the goals the three of us could
19 work to achieve together. This was all initiated by him.

20 Since that time, I have been continuously amazed
21 at the dedication this individual has to the University of
22 California and the people of this state. His passion for
23 serving others and improving the University of California's
24 connection to the California people is exemplified by his
25 participation in a large number of diverse activities and
26 organizations.

27 A few brief examples include a participation in
28 the UC outreach efforts, the UCSD Connect Program, the UCSD

1 Cancer Board, and his active participation with the UC Alumni
2 Association where he strives to create a strong alumni support
3 network and encourages UC graduates to be more active
4 participants in their communities.

5 I have met with Peter Preuss several times over
6 the last year. His interest and concern for undergraduate
7 issues has been unparalleled by other members of the Board of
8 Regents.

9 Although he and I do not agree on every aspect of
10 all issues, I appreciate, as others do, Regent Preuss's
11 dedication to fully educating himself about issues and
12 formulating a well thought out opinion. He does not accept
13 ideas or decisions complaisantly. Instead, he actively
14 participates in discussion, conducts his own research, and
15 formulates an opinion grounded in intelligent discourse and
16 commitment to the people of this state.

17 As a student, I appreciate Regent Preuss's
18 attention to the quality of UC education and our future
19 prospects as alumns.

20 As a Californian, I greatly appreciate his
21 commitment to making the University responsive to the needs of
22 our communities and work in the best interests of the great
23 people of this state.

24 I endorse the confirmation of Peter Preuss as
25 Regent of the University of California. I look forward to the
26 opportunity, with your confirmation, to continue our discussions
27 on the future of the University and its role in the state, with
28 Peter Preuss as Regent, and I as a tax paying citizen of the

1 State of California and the alumni of a great university.

2 Thank you for your attention.

3 CHAIRMAN LOCKYER: Thank you very much. Other
4 questions.

5 Next, please.

6 MS. DELANEY: My name is Nancy Delaney, and I'm
7 with the Committee for a Responsible University.

8 I might be wrong, but I believe that both Dr.
9 Preuss and Mr. Parsky voted for this UCSF merger.

10 I would just like to raise a few issues, one
11 being health care for poor. I believe that I know that people
12 who are homeless, or who are uninsured now go to the UCSF
13 Medical Facility. They will not have that access.

14 Union jobs will be lost. Public monies, where
15 are they going, and who's going to be getting the money that has
16 been built up there? And most importantly, public trust.

17 And so, although Dr. Preuss seems like as an
18 individual much more responsible person than I've heard usually
19 recommended for the Regents, I think he voted also for the UCSF
20 give-away of the public trust, and that makes me question his
21 interest.

22 CHAIRMAN LOCKYER: The votes were 14-2, and your
23 point is a good one. We'll talk with them both about it.

24 MS. DELANEY: It's especially the health care for
25 the poor.

26 CHAIRMAN LOCKYER: Bravin and Montoya were the
27 two that voted no.

28 MS. DELANEY: Montoya and who else?

1 CHAIRMAN LOCKYER: Bravin, the student rep.

2 MS. DELANEY: I really appreciate their votes for
3 no.

4 CHAIRMAN LOCKYER: Thank you.

5 Any more comment at all?

6 Sorry for inconvenience. It's night in
7 Sacramento, you'll have a lot of fun. Just be careful when they
8 roll up the street that you're not on it.

9 We'll wrap it tomorrow morning. Thank you both.
10 We've still got other business to do tonight. So we'll keep
11 moving, but thank you very much.

12 [Thereupon. This portion of the
13 Senate Rules Committee hearing was
14 terminated at approximately 5:45 P.M.]

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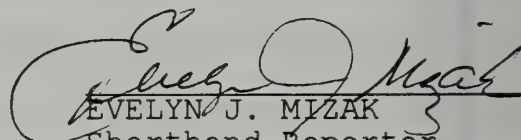
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

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APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

SHANNON HOOD, Consultant to SENATOR BRULTE

ALSO PRESENT

ROBERT C. FRAZEE, Member
California Integrated Waste Management Board

STEVEN R. JONES, Member
California Integrated Waste Management Board

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: All right, now we are at the remaining item, Mr. Frazee and Mr. Jones. Come up.

MR. FRAZEE: Good afternoon, Senator.

CHAIRMAN LOCKYER: Would you want to make any opening comment?

MR. FRAZEE: Just briefly.

I am Robert Frazee, seeking your confirmation of my appointment to a partial second term on the Integrated Waste Management Board.

Just by way of background, I think at this point we can declare the Waste Management Act of 1989 a success or at least a partial success. The planning measures that came before our board are nearly 100 percent in compliance with the --

CHAIRMAN LOCKYER: Let me interrupt because there are people that are waiting for me. I omitted one item accidentally.

[Thereupon the Rules Committee acted upon legislative items.]

CHAIRMAN LOCKYER: I'm sorry and apologize for the interruption.

MR. FRAZEE: To continue, the tiered permitting exercise that the Board has been engaged in, which is a process that will make it easier for applicants to obtain waste facilities permits, is moving along very well. As I mentioned, we reached the 25 percent goal in '95, and are on our way to reaching the 50 percent goal in the year 2000.

1 The tire and oil programs are both very active,
2 and as is the RMDC, the Recycling Market Development Loan
3 program. In that area, the Board marketed a number of loans
4 this last year in order to increase the available funds in that
5 area.

6 The one point finally that I want to make is that
7 we are a non-general fund agency. Our budget relies entirely
8 upon proceeds from a surcharge on the tipping fee at landfills.
9 And as our success increases, our budget decreases. And that's
10 probably one of the rarities in government these days.

11 So, I'm here seeking your confirmation of my
12 appointment or reappointment to serve a term on the Board.

13 CHAIRMAN LOCKYER: Is there anyone present who
14 wishes to comment at all, either for or against?

15 Questions from Members?

16 SENATOR AYALA: I have a question from the
17 analysis. Your current term expires if first of January in the
18 year 2001?

19 MR. FRAZEE: Yes, that's correct.

20 SENATOR AYALA: Your current term expires then --

21 MR. FRAZEE: That's the term that I have been
22 appointed to is the one that has come up for confirmation
23 already.

24 SENATOR AYALA: What are you doing here if it's
25 not until the year 2001? Okay.

26 CHAIRMAN LOCKYER: What's the hardest votes
27 you've had to cast, or most difficult issue you've worked
28 with?

1 MR. FRAZEE: To be frank, I guess dealing with
2 legislation is the most difficult area.

3 CHAIRMAN LOCKYER: Can you give me examples?

4 MR. FRAZEE: Well, as you know, we have a
5 Legislation Committee. We meet monthly, and review and make
6 recommendations to the full Board on whether to support or to
7 oppose legislation that's pending.

8 Those decisions are sometimes in conflict with
9 the administration positions, so they do create some trauma from
10 time to time.

11 CHAIRMAN LOCKYER: Or Legislators, you mean. You
12 mean like my bill.

13 [Laughter.]

14 MR. FRAZEE: I knew you were getting to that.

15 CHAIRMAN LOCKYER: I didn't mean to, but you
16 brought it up. I figure anyone dumb enough to oppose my bill
17 before you're confirmed, what are you going to be like after
18 you're confirmed?

19 MR. FRAZEE: Yes, Mr. Chairman in my experience
20 in this building, I've never found a good bill that couldn't be
21 made better with the input of a number of other people --

22 SENATOR BRULTE: That is an impressive answer.

23 MR. FRAZEE: -- and particularly people with
24 experience in the area.

25 And that vote that you mentioned was one that was
26 merely seeking amendments to the bill.

27 CHAIRMAN LOCKYER: I'm supposed to be cranky, but
28 it doesn't matter. I don't think it affects any vote. It may

1 affect the signature. That's the only thing that would worry
2 me.

3 What's your current thought about 939? How are
4 you doing at meeting the goals, and where are you going to be
5 short?

6 You mentioned oil, and tires, and so on.

7 Do you think you're going to stay close to those
8 goals?

9 MR. FRAZEE: I think so. There are moves afoot
10 to change the goal. I'm certainly not one who is ready to do
11 that at the present time. I think that we need to continue to
12 push ahead and work towards achieving the 50 percent individual
13 goal.

14 CHAIRMAN LOCKYER: Our analysis raises the
15 question, Mr. Frazee, of whether Cal-EPA has any tendency to
16 treat the Board as an extension of itself, rather than an
17 independent regulatory body.

18 It only cites this one example of the Eastin
19 recycled content measure, where, I guess, months after
20 developing your policy, EPA said here's some changes that they
21 wanted. There's some question about why are they butting in,
22 and do you care?

23 MR. FRAZEE: I have not had that experience. In
24 fact, a little bit to my chagrin, there has not been the
25 guidance or the pressure from Cal-EPA on any of our decisions.

26 I think that we've been independent across the
27 board.

28 CHAIRMAN LOCKYER: Well, Members? Senator

1 Hughes.

2 SENATOR HUGHES: Mr. Frazee, I'm not going to
3 talk empty desert stuff. I'm going to talk stuff all around my
4 community and a lot of communities that look like mine.

5 Senator Watson had a bill, SB 451. Was that this
6 year, do you know?

7 MR. FRAZEE: Yes, I believe that bill is
8 pending.

9 SENATOR HUGHES: Pending now. That had to do
10 with solid waste, and hazardous waste, and liquid waste, and the
11 reality that disproportionate effects have been seen in
12 low-income and minority areas.

13 You voted against that measure?

14 MR. FRAZEE: Yes, I voted to recommend opposition
15 to the bill.

16 SENATOR HUGHES: I was asking him about the
17 Watson bill, the disproportionate effect of this waste material
18 going to urban areas.

19 And Mr. Frazee indicated that had he voted
20 against it.

21 Maybe you could tell me why you voted against
22 it?

23 MR. FRAZEE: Well, first of all, there are
24 studies that dispute that fact of whether or not newly sited
25 facilities are going in urban or minority areas. We've heard
26 results of various studies.

27 But first of all, the fact is that any
28 legislation such as this would only be prospective in nature,

1 would only affect newly sited facilities.

2 If there's a problem, it's in the historic
3 location of a number of these facilities, and I would not deny
4 that those tend, many of them, to fall into minority areas.

5 But again, this bill is prospective.

6 Second, it -- from the standpoint of our Board,
7 we are not permitted to second-guess the siting decisions of
8 local government. All of that action of siting a facility must
9 be done prior to the time that it reaches our Board.

10 So, I think those two things came into play in my
11 decision from the aspect of the Waste Board to oppose.

12 SENATOR HUGHES: Was the vote unanimous? What
13 was the vote like?

14 MR. FRAZEE: Well, our Legislative Committee is
15 made up of three members. It was a 2-1 vote.

16 SENATOR HUGHES: Did Senator Watson come before
17 your Board to make a pitch for this bill?

18 MR. FRAZEE: No, she did not.

19 SENATOR AYALA: I have a question.

20 To follow up on Senator Hughes's question,
21 everybody knows the need for disposing of our waste. And
22 everybody says, "Put it over there. Don't put it next to my
23 neighborhood."

24 What about the desert areas? I know that's not
25 your responsibility. I know it's local government, but do you
26 think it's good idea to use our deserts for this type of an
27 operation?

28 MR. FRAZEE: First of all, the siting decisions,

1 as I mentioned earlier, are made before they reach us.

2 SENATOR AYALA: I'm asking for your personal
3 opinion? I know that's not your responsibility.

4 MR. FRAZEE: But we have all ready approved a
5 siting of a desert facility in Imperial County. That's the only
6 one that's come before us. I did support that.

7 SENATOR AYALA: With the approval of local
8 governments?

9 MR. FRAZEE: Yes, that went through the entire
10 CEQA process, through local government approvals.

11 CHAIRMAN LOCKYER: Could you have vetoed that,
12 the Board?

13 MR. FRAZEE: No. We have a strange --

14 CHAIRMAN LOCKYER: Why does it come before you,
15 then?

16 MR. FRAZEE: For confirmation that everything is
17 in place, so that we must assure that CEQA has been complied
18 with, that all the local processes have been done.

19 CHAIRMAN LOCKYER: So, you could delay it in that
20 manner?

21 MR. FRAZEE: Yes, right.

22 SENATOR AYALA: Are you aware of the proposed
23 dump site in the desert?

24 MR. FRAZEE: Yes.

25 SENATOR AYALA: In a county where they'll be
26 trucking in and train loads of garbage into that area.

27 Shouldn't local supervisors make the final
28 determination on that?

1 MR. FRAZEE: Absolutely, yes.

2 SENATOR AYALA: You're aware of that? There's
3 some people that oppose it because it's going to contaminate the
4 underground basin, they claim.

5 Do you still believe that's a local jurisdiction
6 that should not be tampered with?

7 MR. FRAZEE: Yes. I believe that those siting
8 decisions are strictly local by statute and by my own personal
9 philosophy.

10 CHAIRMAN LOCKYER: Was that called Eagle
11 Mountain, where you had the local referendums?

12 SENATOR AYALA: I think they had a referendum
13 there.

14 SENATOR BRULTE: No, that was Waste Management
15 out in Amboy.

16 CHAIRMAN LOCKYER: What's the name of the
17 location?

18 SENATOR BRULTE: Amboy, A-m-b-o-y was the city.
19 That was San Bernardino County where the vote was, not Riverside
20 County where Eagle Mountain is.

21 SENATOR AYALA: There's some agriculture going on
22 in the middle of the desert there.

23 MR. FRAZEE: Yes, I went out to look at the
24 site.

25 SENATOR AYALA: They discovered water under the
26 ground, and they want to make sure that's not tampered with.
27 But there's a lot of interest, especially from L.A. County and
28 Orange County, that come in and train their garbage into our

1 county.

2 MR. FRAZEE: There are three competing rail haul
3 sites. The one that you mentioned, Eagle Mountain in Riverside
4 County, and the Mesquite landfill, which has been permitted in
5 Imperial County. So, those three are competing for that.

6 SENATOR AYALA: The one in Riverside County has
7 been approved by the Board of Supervisors or the local
8 jurisdiction which controls that area?

9 MR. FRAZEE: It was approved once. Then it
10 failed in the judicial arena. They are back now going through
11 the process.

12 The Riverside County Planning Commission has
13 approved it, but I don't think it's been before the Board of
14 Supervisors.

15 This is the second time around for this one.

16 SENATOR AYALA: Thank you.

17 SENATOR BRULTE: Assemblyman, question.

18 Do you know where the waste stream for the
19 Mesquite site will be coming from.

20 MR. FRAZEE: The EIR calls for Los Angeles County
21 only, but with a provision that with a modified or a subsequent
22 EIR, that the waste stream from other Southern California
23 counties could be accommodated, but that would require
24 additional CEQA action.

25 With the exception of a small component from
26 Imperial County itself, obviously.

27 SENATOR BRULTE: Some people suggest each county
28 should be responsible for handling its own waste and land

1 filling its own waste.

2 Do you have a position on that?

3 CHAIRMAN LOCKYER: It's a little hard in San
4 Francisco County.

5 SENATOR BRULTE: Understand.

6 MR. FRAZEE: That's a tough call.

7 Somebody has suggested that each supervisorial
8 district be responsible for their own, Senator.

9 CHAIRMAN LOCKYER: Well, are you going to
10 announce today, or are you holding this back that you're
11 converting three urban golf courses into dumps.

12 [Laughter.]

13 MR. FRAZEE: That's --

14 SENATOR BRULTE: They are looking at the land
15 that currently has Hollywood Park sitting on it.

16 SENATOR HUGHES: See, I knew it would affect my
17 district.

18 [Laughter.]

19 CHAIRMAN LOCKYER: All right, we have a motion, I
20 believe, by Senator Brulte.

21 Is there anyone present who opposes? We don't
22 have any in the file. There are a lot of supporters.

23 Okay, Senator Brulte's made that motion. Call
24 the roll.

25 SECRETARY WEBB: Senator Ayala.

26 SENATOR AYALA: Aye.

27 SECRETARY WEBB: Ayala Aye. Senator Brulte.

28 SENATOR BRULTE: Aye.

1 SECRETARY WEBB: Brulte Aye. Senator Hughes.

2 SENATOR HUGHES: Aye, provided it's not in my
3 backyard.

4 SECRETARY WEBB: Hughes Aye. Senator Lewis.

5 SENATOR LEWIS: Aye.

6 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

7 CHAIRMAN LOCKYER: Aye.

8 SECRETARY WEBB: Lockyer Aye. Five to zero.

9 MR. FRAZEE: Thank you, sir.

10 CHAIRMAN LOCKYER: Thank you.

11 Okay, Mr. Jones is our next and last item.

12 SENATOR BRULTE: I didn't understand the Watson
13 resolution, because now primarily L.A.'s taking its garbage and
14 dumping it in outlying counties.

15 CHAIRMAN LOCKYER: I think it was anticipating an
16 apology for past dumping.

17 Hi, go ahead. Do you want tell us something
18 about yourself?

19 MR. JONES: Absolutely. Thank you very much,
20 Mr. Chairman and distinguished Members of the Rules Committee.

21 I am honored to be here today as the Governor's
22 appointee to the California Integrated Waste Management Board.

23 I fill the seat that is reserved for the
24 industry. I am not the lobbyist for the industry, but I do
25 bring 22 years of experience to this position.

26 I started on a garbage truck in San Francisco.
27 I am the true American success story.

28 CHAIRMAN LOCKYER: A guy named Jones.

1 MR. JONES: A guy named Jones. If it makes you
2 feel better, the second I was there, they called me "Moose," and
3 that name has stuck, and I don't know why. But throughout the
4 entire nation, people know who Moose is. They're not sure they
5 know who Steve Jones is.

6 But I did come off a garbage truck and worked in
7 the shops. I've had a career that has included everything from
8 running a \$250 million a year company, responsible for 38
9 operating facilities, serving over 100 cities and counties in
10 the State of California, as well as three other states.

11 I recently, before being appointed, was the CEO
12 of Cal-Sierra Disposal in Sonora, which is part of Tuolumne
13 County in rural California.

14 And I think that the things that I bring to this
15 Board, besides the experience and the enthusiasm, I think one
16 more important thing is, as I have heard and as you -- I got
17 CCs -- I think the support that I get and that I've gotten in
18 this process, not only from my industry, but from the unions
19 that I've dealt with over the years in negotiating contracts,
20 from the environmental community, and from the local
21 governments, says a lot about the kind of a manager that I am,
22 because I have spent 22 years trying to build consensus to solve
23 problems, not just taking arbitrary positions.

24 When you site landfills, and you site transfer
25 stations and recycling facilities, you've got to be able to make
26 it work for all the constituents involved.

27 I look forward to this process today. I feel
28 confident that I'll be able to answer everybody's questions

1 adequately, I hope.

2 I do want you to know that I bring some deep
3 concerns to deal with some of the problems in California. These
4 were areas that I always had concern when I was in the business.
5 Those include the tire problem that we have in the State of
6 California. We've taken that on in our committee as one of our
7 main issues, and those are the things we're trying to come up
8 with solutions.

9 CHAIRMAN LOCKYER: What are you going to be able
10 to do?

11 MR. JONES: We're working right now on civil
12 engineering projects. We're also looking at the science of
13 using tires as tire-derived fuel and supplemental, as a
14 supplemental fuel source for cement kilns, where there is no
15 ash.

16 The science that we have available today tells us
17 that the emissions level actually are impacted positively, where
18 they can go down and not up. There is no residual ash.

19 Like I said, it's a win-win for everybody.

20 One of those facilities burning, just using this
21 as 15 percent of their fuel needs burns 3 million tires a
22 year. We're in a state that has 30 million tires a year that
23 are coming off of cars and ending up either needing to be
24 disposed of in one form or another.

25 We're working on civil engineering figuring out a
26 way to chip tires, use those tires as foundation basis. We had
27 brought out one of the experts from Maine, a Dana Humphries, who
28 is considered the expert in civil engineering.

1 We brought him out to California for a workshop
2 and found four or five uses that are actually going to be
3 cheaper uses that we are going to be able to bring forward to
4 public works directors throughout this state on their projects
5 that can save them some dollars.

6 So, it's those types of -- you know, we all know
7 about using them for crumb rubber, and using them for, you know,
8 making playgrounds mats, making those types of materials.

9 CHAIRMAN LOCKYER: For a while they were talking
10 about throwing it in road materials.

11 MR. JONES: And they still are, rubberized
12 asphalt and concrete. In fact, we just -- we've got an
13 ongoing -- we've got two programs going. One with L.A. County,
14 where we're doing a RAC project; that is, they're developing the
15 criteria and helping other local jurisdictions in the uses of
16 that material, so that they can actually have the right chemical
17 formulas and save some dollars while utilizing those tires.

18 Then we've got four projects going on right now
19 throughout the state that we've helped fund through grant
20 programs on those projects to get them out.

21 The rubberized asphalt, the civil engineering
22 uses, the molded rubber uses, they're going to take care of
23 about 10 to 15 percent of the tire problem. They're not going
24 to be able to take care of it all.

25 It's very clear that tire-derived fuel is
26 supplemental fuel when it makes sense, is where we're going to
27 be able to get rid of the majority of those tires. Otherwise,
28 we're going to have to ship them and put them in landfills, and

1 I don't think we want to do that.

2 Those are the types of things that I think I
3 bring to this Board. And I have to tell you the truth, I enjoy
4 what I'm doing. I've been here six months. I think I've made a
5 positive impact in six months. I know I've enjoyed working with
6 the staff and with the fellow Board members.

7 The nice thing about this Board is that they all
8 care. I may not agree with them all, all the time, but they
9 care about what they're doing. And it shows every day in the
10 decisions they make.

11 CHAIRMAN LOCKYER: Mr. Jones, does it seem like
12 the multi-member board is the appropriate way to deal with these
13 issues, rather than one department, or something like that?

14 MR. JONES: I think a multi-member board, as we
15 have in place, was put into place on a part-time level back in
16 the '70s, is the appropriate way to do it, because you bring --
17 you get a diverse background of people and of interests that can
18 bring or lend their expertise into solving those types of
19 problems.

20 I think as a department, things become arbitrary.
21 That was one of the questions I was asked in my interview. My
22 industry put my name forward to the Governor's Office, which was
23 an unbelievable honor for me, that they had asked me if I would
24 do that. And that was one of the questions that I was asked.

25 And told them, I thought that it made a lot of
26 sense to have a full-time board to make those decisions, I
27 support, obviously, I support that.

28 SENATOR HUGHES: Well, I don't know that you've

1 been there long enough to answer this question.

2 Is it a problem with the even numbered board?
3 Maybe I should have asked Mr. Frazee. Do you get bogged down,
4 and either one of you or both of you can, perhaps, answer that
5 question?

6 MR. JONES: I don't think so. I think that as
7 long as we have a fully staffed Board, as long as all six
8 positions are occupied, I think coming up with four votes builds
9 a level of consensus that may not otherwise have been there.

10 I think that there needs to be an exchange.
11 There needs to be that process to get to four votes.

12 And it's -- you know, it's not always -- you'd be
13 surprised sometimes at how those votes come out. It's not
14 always 4-2. It's 5-1, you know, it's 3-3. They're just issues
15 that were important.

16 I think the independence of the Board comes
17 through on those votes.

18 SENATOR HUGHES: I noted that when I asked
19 Mr. Frazee how he voted on the Watson bill, he voted to oppose
20 it.

21 And you, Mr. Jones, voted to delay taking a
22 position on it.

23 What was your thinking there? How do you feel
24 now about that bill?

25 MR. JONES: I did support it to be held over
26 because there were two reports that were going to be delivered
27 to us that we hadn't seen prior to taking a position on that.

28 I look at it a little bit differently, because

1 I've done this for 22 years. And that's a bill that, in my
2 opinion, looks at demographics. In all of the facilities that
3 I've ever sited, we never looked at demographics.

4 We looked at, you know, what the zoning was,
5 where the area was, how central it was to what our operations
6 were going to be.

7 So, when I saw the bill that added that to it, I
8 wanted to hear more about it. Within days of the board meeting,
9 we had heard that there were these reports on both sides of the
10 issue.

11 I also have concern, and I don't want it to sound
12 far reaching, but it's the kind of thing that kind of wakes you
13 up when you get put into it just as a policy maker, as all of
14 you know. But this is my first cut at something like this, so I
15 am going cautiously through these things.

16 I had to represent the state, speaking with
17 individuals from the Middle East and from South Africa on solid
18 waste issues. They had come to the United States to look at
19 facilities. They spent days in California looking at some of
20 the things that were going on here.

21 And in one of my discussions with a gentleman
22 from Durbin, South Africa, he wasn't interested in looking at
23 landfills. Because of environmental racism and because of the
24 atrocities of apartheid over those years, he's forced now to
25 build waste-to-energy plants in areas that it could never be
26 construed that there was any environmental racism.

27 When he told me that, and we were talking about
28 the expense of putting in a waste-to-energy plant in South

1 Africa, when they have all this land that they could use, that
2 set me back a little bit as to, you know, how a decision -- how
3 these decisions just keep -- the effects don't stop.

4 So, when this bill came forward, and they were
5 talking about environmental racism or those types of things,
6 that was first thing that came into my mind. And my experience,
7 that that was never an issue when we were siting facilities.

8 Like I said, we always looked at zoning. We
9 looked at where it is was in relationship to our operations.
10 And was it the most cost effective way for us to operate our
11 business so we could keep the rate down.

12 So, when they said hold, I agreed to hold because
13 I wanted to read those things so we could end up giving at least
14 some kind of an informed decision, rather than just some
15 off-the-cuff.

16 But I have a problem with it until I understand
17 it a little better. Like I say, my personal experience never
18 lent that.

19 SENATOR HUGHES: Will this come up again?

20 MR. JONES: It's supposed to come back next
21 month. We're supposed to be getting those reports, probably
22 have them, if they're not there now, they'll be there in the
23 next couple of days. Then, when it comes up, after we've had a
24 chance to read these things, then it'll be up in the next
25 month's meeting, and we'll take it on. But we'll take it on a
26 little better informed then.

27 SENATOR HUGHES: Thank you.

28 Regarding the so-called bottle bill, bottles and

1 glass and plastic containers consist of only 2.5 percent of the
2 solid waste stream.

3 What ideas do you have for reducing the 79.5
4 percent of waste that we create?

5 MR. JONES: The rest of it? Other than the
6 bottle bill?

7 As I stated, we're at 30 percent right now. We
8 have diverted 30 percent of our waste stream as of 1996, on
9 target to our 50 percent mandate.

10 Many of the things that -- we've identified the
11 three biggest sources of waste in our state right now as being
12 construction and demolition waste, yard waste, and paper. Those
13 are all big, heavy components that a lot of energy hasn't been
14 spent working on.

15 I think the first five or six years of this
16 process has been spent on building material recovery facilities,
17 putting in curbside recycling programs, dealing with the
18 educational programs, dealing with those types of programs that
19 are at the curb, that people see, that start to affect people's
20 thought processes. And now we're going after that harder part.

21 Another big part of it is waste prevention.
22 Shortly after I was appointed to this Board, being from Northern
23 California, I took two trips to Southern California. And that
24 second trip was with all of the public facilities -- the City of
25 Los Angeles, County, L.A. Sand, San Diego, City of San Diego,
26 Orange County.

27 And when I sat down with Drew Soames, who is the
28 acting manager for solid waste for the City of L.A., and we were

1 talking about different programs, he said, "I need help with
2 some type of a mulching lawn mower program, or something that we
3 can do because we're spending \$35 a ton to pick yard waste up,
4 and \$38 a ton to process it. So, if I never have to pick it up,
5 I've saved \$70-some, plus I've affected our diversion rate,
6 because that material's not going to a landfill anymore, which
7 it was historically going to before."

8 So, we started working together. In fact, it was
9 one of the nice parts of dealing with Cal-EPA, because I talked
10 to Pete Rooney, and he put me in touch with Mr. Dunlap, and we
11 worked on the existing Air Board programs that they have that
12 might help fund a lawn mower exchange program, where we put
13 electric mulching lawn mowers into Southern California.

14 That's driven by the bottom line. That's driven
15 by a city administrator that doesn't want to spend \$73 a ton to
16 compost that waste.

17 Those are the types of programs that we need to
18 be thinking about. We need to be thinking about things that
19 prevent -- you know, we're always going to have waste. I mean,
20 we will always have it; we have to.

21 I mean, I've always told people, we're going to
22 have death, taxes, and garbage. And I don't want to be
23 considered a liar.

24 We need to -- but we need to deal with things
25 like that. And that's going to make sense for everybody in
26 Southern California. They're having a meeting next week. I
27 won't be there. I'll be at a Permitting Committee meeting in
28 Sacramento, but the process is going forward. That could have

1 huge effects on Southern California.

2 SENATOR HUGHES: Thank you.

3 SENATOR AYALA: I have a question.

4 Mr. Jones, as I indicated to you this morning, I
5 had a file full of letters from the industry supporting you.
6 That's suspect, you know, and there's something going on with
7 you and the industry that they all love you.

8 I want to ask you, is Mr. Frazee doing a good
9 job?

10 [Laughter.]

11 MR. JONES: Yes, he does a great job, Senator.

12 SENATOR AYALA: What is your opinion of the most
13 promising ways of reducing the amount of solid waste generated
14 by people at large? Do you have any idea what's the best
15 approach?

16 MR. JONES: I do. I think, and I'll go back
17 again to personal experience, San Bruno, California. We started
18 the first curb side recycling program, one of the first in the
19 state. That was very successful. It had 80 percent
20 participation. We always had approximately the same level of
21 recyclables that were being recovered every week.

22 All those things went a long for about four or
23 five years. And what we saw after about four-and-a-half years
24 into the process was, we were taking one less transfer truck of
25 residual waste to the landfill every week.

26 So, little by little, people made choices. They
27 went into stores because they had made that commitment to
28 separate at their house. It took a long time. It took a while,

1 but they started making choices when they went into the store
2 and started buying things that weren't as wasteful as they had
3 been.

4 We're working with -- through Waste Prevention,
5 one of our divisions at the Waste Board, we're working right now
6 on transport packaging is what it was originally called. Now
7 it's called a packaging and distribution process.

8 And I'm involved in that thing with our staff.
9 What we've done is, we've invited the manufacturers of the
10 packaging, the manufacturers of the products that the packaging
11 houses, the transportation industry who has to transport this
12 stuff, the warehousemen, the recyclers, and the retailers.

13 Because if we can make a change, no matter what
14 that change is, or what the significance is, it needs to work
15 for everybody up and down that line for it to be successful. If
16 we're working, trying to do it this end, and all of a sudden we
17 get to the transportation side and they say, "We can't move it.
18 It's too flimsy. It's going to break. Our breakage is going to
19 be up too high," we haven't done any good.

20 So, we're bringing all those stakeholders in.
21 That's going to have an impact at some point. And it's those
22 types of things, I think, that are going to make the change,
23 Senator.

24 SENATOR AYALA: Do you think that wine and liquor
25 bottles should be added to the materials subject to the bottle
26 bill?

27 MR. JONES: The bottle bill is not under the
28 Waste Board's purview, but in my own opinion, yeah, I think they

1 should.

2 SENATOR AYALA: Earlier, you expressed your
3 concerns about some issue you'd like to be addressing in the
4 days to come. Can you elaborate on what they are?

5 MR. JONES: The tire issues, I think. Waste tire
6 issues, I think.

7 I think the potential for environmental damage
8 with the stockpiles of tires in this state --

9 CHAIRMAN LOCKYER: I've got this movie I'm
10 figuring out. I'll sell it to Steve Peace, I guess.

11 How many tires has that guy got in the canyon
12 near Tracy? It's 30 million or something?

13 MR. JONES: Around 20.

14 CHAIRMAN LOCKYER: Twenty million, a lot.
15 You have the terrorist throw the starter into the
16 middle of it. It melts, and it runs right across I-5 and into
17 the canal, and winds up in L.A.

18 [Laughter.]

19 CHAIRMAN LOCKYER: This is a good movie.

20 MR. JONES: Scary time there, Senator.

21 SENATOR HUGHES: Don't sell it to Peace. He'll
22 try it.

23 CHAIRMAN LOCKYER: But anyway, the tire, that was
24 the answer to your question.

25 MR. JONES: For that very reason. It's very,
26 very scary, the tires.

27 The other issue that I'm working on, and we've
28 just started, is, we brought together stakeholders from public

1 and private landfill operators, because I think we need to come
2 up with a standard of people that are running -- operating
3 landfills throughout the State of California.

4 This is very preliminary. We're working with
5 eight people right now -- L.A. San District, County of
6 Monterey, County of Orange -- to bring in their expertise from
7 the public -- from the private sector and waste management,
8 NorCal, BFI, BKK.

9 We're bringing them together to start talking
10 about how we can establish a threshold level, so that when
11 somebody is operating a landfill in a jurisdiction, that
12 jurisdiction and the public that it serves are going to know
13 that they've met a standard, more than just dirt pushers.

14 We are -- I'm not a dirt pusher. I'm a
15 professional. I know what I'm doing when I build a landfill or
16 fill a landfill.

17 There's a lot of people out there that don't. We
18 need to get that level there, or at least make a jurisdiction
19 aware that there are people who can't pass a minimum standards
20 test. They don't understand what the issues are.

21 Because much like that tire, flood of tires, I
22 don't want to see a flood of leachate. You know, those types of
23 things that people just don't understand, and that's what part
24 of our job is.

25 So, we're working on those issues right now,
26 Senator.

27 SENATOR AYALA: Thank you.

28 CHAIRMAN LOCKYER: Do you feel reasonably good

1 about getting to 50 percent?

2 MR. JONES: I feel very good about getting to 50
3 percent. I think that the legislation, AB 688, and the
4 follow-up legislation, 1066, as long as a jurisdiction is making
5 a good faith effort, then I think everybody is going to make
6 out.

7 My county in Tuolumne County, we're at 53
8 percent. We had an advantage, because we had an ash stream that
9 used to go to the landfill. We found out how to take that ash
10 and reuse it positively.

11 City of San Francisco doesn't have a yard waste
12 or a C&D waste stream. So, it's very, very difficult, you know,
13 for them to get to 50 percent. If they get to 40 --

14 CHAIRMAN LOCKYER: They have marijuana plants.

15 MR. JONES: Well, you know.

16 And I think when we look at those issues --

17 CHAIRMAN LOCKYER: I think that's medicine now.

18 MR. JONES: But yeah, I think with that
19 legislation we will get there.

20 CHAIRMAN LOCKYER: Good.

21 Well, it perhaps is a tribute to how strongly
22 people feel about you in your industry, as their representative
23 on this Board, that I've had friends call from their vacations,
24 out of state, to urge confirmation. It's a tribute, I think, to
25 their feelings for you and your commitment and competence that
26 they're that involved.

27 Are we ready for a motion? Is there opposition
28 present?

1 SENATOR BRULTE: I don't know if you're
2 competent, but I think that there ought to be someone else as
3 big as I am in state government.

4 [Laughter.]

5 CHAIRMAN LOCKYER: We now call him Moose Brulte.

6 [Laughter.]

7 CHAIRMAN LOCKYER: All right, I think that was a
8 motion. Call the roll.

9 SECRETARY WEBB: Senator Ayala.

10 SENATOR AYALA: Aye.

11 SECRETARY WEBB: Ayala Aye. Senator Brulte.

12 SENATOR BRULTE: Aye.

13 SECRETARY WEBB: Brulte Aye. Senator Hughes.

14 SENATOR HUGHES: Aye.

15 SECRETARY WEBB: Hughes Aye. Senator Lewis.

16 SENATOR LEWIS: Aye.

17 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

18 CHAIRMAN LOCKYER: Aye.

19 SECRETARY WEBB: Lockyer Aye. Five to zero.

20 CHAIRMAN LOCKYER: Good luck.

21 MR. JONES: Thank you very much.

22 [Thereupon. This portion of the

23 Senate Rules Committee hearing was

24 terminated at approximately 2:55 P.M.]

25 --ooOoo--

26

27

28

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

2nd day of July, 1997.


EVELYN J. MIZAK
Shorthand Reporter

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16 MONDAY, JULY 14, 1997

17 1:55 P.M.

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25 Reported by

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

MEMBERS ABSENT

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

SHANNON HOOD, Consultant to SENATOR BRULTE

ALSO PRESENT

HENRY M. DUQUE, Member
Public Utilities Commission

SENATOR QUENTIN KOPP

SENATOR JOHN VASCONCELLOS

PAUL M. RELIS, Member
California Integrated Waste Management Board

SENATOR JACK O'CONNELL

RICHARD A. BILAS, Member
Public Utilities Commission

FRANK D. BOREN, Member
Fish and Game Commission

JOHN W. BROWN, Member
State Water Resources Control Board

SENATOR JIM COSTA

STEPHEN MACOLA
Moulton Niguel Water District
Newhall County Water District

1 JIM STAHL
2 Los Angeles County Sanitation District
3 California Association of Sanitation Agencies

4 MICHAL C. MOORE, Member
5 State Energy Resources Conservation and
6 Development Commission

7 SENATOR MIKE THOMPSON
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

SENATOR LEWIS: We are going to start on Governor appointees appearing today, and going to start on appointee number four, Mr. Henry Duque.

Senator Kopp, welcome to the Committee.

SENATOR KOPP: Thank you, Mr. Chairman and Members of the Committee.

It was a couple of years ago that I appeared before this Committee with substantially the same membership to present Mr. Duque and to forecast a person of integrity's ability to perform responsibly and honestly, and with good judgment and good common sense during a prescidential period in the existence of the California Public Utilities Commission.

I was pleased to recommend his confirmation to the Rules Committee. His confirmation was recommended by the Rules Committee of the Senate, which approved it unanimously.

He has performed in accordance with the standard and in accordance with the principles which have characterized his life and his career, both in private industry and as a member of this very important commission of the State of California. It is appropriate, therefore, for me again to recommend him.

The transformation of the manner in which utilities do business in California has been ratified legislatively. The implementation will be equally as excruciating in terms of details and in terms of the ability to know the subject matter, and to render such actions applicable

1 as are appropriate.

2 And Mr. Duque is even more qualified than he was
3 previously, because he now processes the benefit of years of
4 experience and years of being in the eye of all of the debate,
5 and the disputes, and discussions, and speculation, and
6 conjecture about the transformation of the manner in which
7 utilities do business in California.

8 He has performed impeccably, and his reputation
9 for that impeccability of performance and of execution of his
10 duties is even more knowledgeable in terms of the Legislature
11 and the Governor than it was before.

12 So in sum, Mr. Chairman and Members of the
13 Committee, not only do I recommend his confirmation, but I
14 recommend it without a reservation or without any equivocation
15 and commend to you Mr. Henry Duque for confirmation on his
16 reappointment to the Public Utilities Commission.

17 SENATOR LEWIS: Senator Kopp, thank you very
18 much.

19 Mr. Duque, welcome. Do you have an opening
20 statement?

21 MR. DUQUE: Yes, I do, Senator Lewis.

22 I am pleased to have been nominated for a
23 complete six-year term as a Commissioner of the CPUC. When I
24 appeared before you in March of 1996, you saw a novice
25 Commissioner working diligently to decide utility matters
26 consistent with the laws and needs of Californians.

27 Today, by explaining my regulatory philosophy, my
28 view of the role of government, and what I have done to make a

1 difference in the lives of Californians, I hope to provide you
2 the information necessary to confirm me for a second term.

3 As a Commissioner, I have developed guiding
4 principles to assist me in implementing the law in a way which I
5 believe serves California citizens well. When the statute
6 leaves limited room for interpretation, this job is quite
7 simple. But often, statutes provide for a broad policy
8 framework from within which the Commission must operate.

9 To assist in my decision making, I have a list of
10 four goals. First, producing an outcome fair to the consumers;
11 second, producing an outcome fair to both owners or
12 stockholders; third, reducing regulation; and fourth, promoting
13 infrastructure investment in California. This short list helps
14 me keep my day-to-day operations in order.

15 Keeping government actions simple and focused is
16 the key to successfully implementing the state laws that seek to
17 open California markets to new entrants. As an individual who
18 brings managerial experience to this position, my approach to
19 cases relies more on the facts before me than on an overall
20 ideology which leads to the same result in all situations, no
21 matter how different.

22 This approach, however, often requires me to
23 explain my actions to those with non-managerial backgrounds. In
24 my confirmation materials, I have included two examples of how I
25 decided particular issues which provide a good illustration to
26 my approach.

27 When I joined the Commission, I brought to my
28 position much experience in getting things done, both as a

1 banking executive and a member of boards of nonprofit community
2 service organizations. Moreover, as a saving and loan
3 executive, I knew that a bank lives or dies by how well it
4 communicates with its customers and solves their service
5 problems.

6 I believe that government should be even more
7 concerned with citizens than a bank with customers, and I've
8 oragnized my own office to reflect this belief.

9 There are two policies I have implemented with a
10 measure of success. First, my staff and I take correspondence
11 very seriously. When a citizen takes time to write a letter, I
12 read it, respond, and where possible, my staff and I take
13 further steps to address the concerns of the writer.

14 In my time in office, I have answered and
15 personally signed over 1700 letters from ratepayers,
16 constituents, throughout the state.

17 Secondly, I actively manage my load of assigned
18 cases, meeting monthly with the administrative law judges in
19 each industry we serve. In my view, citizens and companies
20 deserve timely regulatory action, and my participation in these
21 meetings enables me to give judges guidance where needed, and to
22 ensure that no cases fall through the cracks. These are modest,
23 good government actions.

24 My experience indicates that almost every
25 employee and manager believes in these policies, but when
26 resources are constrained, these policies can fall by the
27 wayside. My hope is that by focusing as much on these matters,
28 as well as on the weighty decisions before the organization, I

1 will remain linked to the citizen whom I seek to serve.

2 I believe these steps are consistent with the
3 objectives of Senate Bill 960, passed by the Legislature last
4 year, to make Commissioners more accountable to the public. I
5 firmly believe that we should be held accountable, so many of my
6 office procedures are designed to improve accountability.

7 Other steps I have taken include attending as
8 many hearings as possible in my assigned cases, holding
9 primarily all party meetings in cases which I believe fall into
10 the rate setting category, and working closely with judges to
11 manage these cases assigned to me.

12 My experience to date indicates that these
13 actions will yield good results for Californians, and will
14 promote good relations between the Commission, citizens, and the
15 Legislature.

16 I hope that you will give me the opportunity to
17 continue to serve California in this way.

18 SENATOR LEWIS: That you very much, Mr. Duque.

19 I understand, Senator Vasconcellos, did you want
20 to testify.

21 SENATOR VASCONCELLOS: Briefly.

22 I had hoped to be here at the opening to
23 introduce Mr. Duque.

24 In 1950, I graduated from high school. One of my
25 classmates was Hank Duque. I've known him over the years. He's
26 a man of intelligence, integrity, and commitment. And I think
27 he works hard on behalf of the people of California, and I hope
28 that you will see fit to confirm him.

1 SENATOR LEWIS: Thank you, Senator.

2 Do any Members of the Committee preliminarily
3 have any questions for Mr. Duque? Senator Ayala.

4 SENATOR AYALA: I think you indicated that you
5 support the PUC's actions to have an oversight by the lower
6 court. As you well know, the only oversight today is the
7 Supreme Court.

8 MR. DUQUE: That's right.

9 SENATOR AYALA: So, they don't appear to be the
10 that accountable to the general public. So, I suppose you
11 would, by your statements, you would support some kind of review
12 process?

13 MR. DUQUE: I do support judicial review. I
14 personally don't feel that it should be any level of courts, but
15 I think it should be restricted in some way, but I think it
16 should be broadened further than it is now. I'm not sure this
17 is the way we're doing it is the right way.

18 SENATOR AYALA: Question of a personal nature,
19 somewhat.

20 If a mutual water company was allowed to sell
21 their surplus water at a profit, would that necessarily take
22 them out from under the jurisdiction of the PUC?

23 MR. DUQUE: I don't know whether it would or
24 not.

25 SENATOR AYALA: That by itself, you're not sure?

26 MR. DUQUE: I'm not sure.

27 SENATOR AYALA: I understand there's more to the
28 question, but anyway, you're not aware of whether a mutual water

1 company, if they were allowed to sell their water for profit
2 making without any restrictions, you don't know --

3 MR. DUQUE: Senator, I'm not opposed to people
4 making profits.

5 SENATOR AYALA: Oh, I don't think anybody is that
6 I'm aware of. Profit is not a dirty word.

7 But I think that in the case of mutual water
8 companies, I believe that the surplus water, they can only sell
9 it at cost, according to what I understand. And if they wanted
10 to change that, it would have to be the PUC doing it.

11 But you're not aware of that transaction?

12 MR. DUQUE: I am aware, but let the first one
13 come up and we'll see what we do.

14 SENATOR AYALA: Thank you.

15 MR. DUQUE: Thank you, sir.

16 SENATOR LEWIS: Is there anyone in the audience
17 that would like to testify in behalf of Mr. Duque at this time?
18 Anyone that would wish to testify in opposition to his
19 confirmation or express reservations or concerns?

20 SENATOR BRULTE: Move it.

21 SENATOR LEWIS: We have a motion on the
22 confirmation. Please call the roll.

23 SECRETARY WEBB: Senator Ayala.

24 SENATOR AYALA: Aye.

25 SECRETARY WEBB: Ayala Aye. Senator Brulte.

26 SENATOR BRULTE: Aye.

27 SECRETARY WEBB: Brulte Aye. Senator Hughes.

28 Senator Lewis.

1 SENATOR LEWIS: Aye.

2 SECRETARY WEBB: Lewis Aye. Senator Lockyer.
3 Three to zero.

4 SENATOR LEWIS: Three to zero, congratulations.

5 MR. DUQUE: Thank you very much. I appreciate
6 it, and I will try to continue to do my best.

7 [Thereupon the Senate Rules
8 Committee acted upon other
9 agenda items.]

10 SENATOR LEWIS: We're going to now go to item
11 number six, Governor's appointees, we have Senator O'Connell
12 here who would like to make an introduction.

13 SENATOR O'CONNELL: Thank you, Mr. Chairman and
14 Members of the Committee.

15 I just briefly wanted to introduce, reintroduce,
16 really, to you Paul Relis, who is seeking an additional term on
17 the Integrated Waste Management Board.

18 Paul and I have been friends for nearly 20 years.
19 He's from Santa Barbara, very well respected statewide as well
20 as from our community. His background has been in environmental
21 studies. He has, I think, a real strength in being able to
22 bring people together on some very complex issues. He has a
23 great understanding of these issues.

24 He's the founder of the Environmental Defense
25 Center in Santa Barbara. It continues to remain in existence
26 today. There've been numerous significant national conferences
27 held at the Center. It's now called the Heald Day Center in
28 Santa Barbara.

1 And Paul's just been a truly stalwart,
2 outstanding appointment from the Governor from day one. He's
3 traveled the state extensively, and I certainly want to urge
4 this Committee to reappoint Paul Relis to the Integrated Waste
5 Management Board.

6 SENATOR LEWIS: Thank you very much.

7 Mr. Relis, welcome to the Committee. Do you have
8 an opening statement you'd like to make?

9 MR. RELIS: Yes, I do.

10 SENATOR LEWIS: Please proceed.

11 MR. RELIS: Members of the Rules Committee, I
12 appreciate being here today and speaking to the matter of my
13 confirmation. I would like to highlight what I think are my
14 accomplishments on the Board.

15 First, a few words in general. I have tried, in
16 the over five years I've been at the Board, to be diligent in
17 bringing about the fruition of AB 939. The crux of this law is
18 to divert by 50 percent the solid waste going to landfill by the
19 year 2000.

20 We believe at the Board that we are, at this
21 point, slightly over 30 percent in reaching this goal through
22 waste reduction and recycling.

23 In hearings last year on the solid waste
24 situation, it was stated numerous times that we need to find
25 markets for the some 20 million tons of solid waste that we are
26 seeking to convert into marketable materials. Thus far, we have
27 developed markets for about 13 million tons, and I have taken a
28 leadership roll at the Board in developing these markets.

1 Briefly, our approach has been to develop a
2 recycling market development zone loan program. Thus far, we've
3 made nearly 60 loans, totaling approximately \$25 million to
4 manufacturers who use recycled content in the production of
5 various goods and services to the state. In fact, in that
6 regard, Senator O'Connell authored a bill which I worked with
7 his office on that allowed us to leverage the limited funds that
8 we have, and just this last year we sold 5 million in loans on
9 the secondary marketplace just augmenting our dollars.

10 In reaching a goal like AB 939 calls for, we have
11 to target the waste stream that we seek to reduce. Organics, or
12 green materials, food wastes, other materials, account for
13 between a quarter and a third of the waste streams of
14 California. We must recover about 70 percent of this material
15 to reach our objective.

16 I have spearheaded the Board's efforts to build
17 an organics recycling industry in our state, tied to California
18 agriculture. Our focus is advancing the use of organics as
19 composts and mulches in the agricultural sector. And we engaged
20 the UC Cooperative Extension Service in a three-year research
21 program to demonstrate the applicability of organics to
22 agriculture.

23 I'm currently working with the Natural Resources
24 Conservation Service through the federal Farm Bill to provide
25 dollars as incentives to farmers just beginning to use this
26 material.

27 Another important focus is in construction and
28 demolition waste. We are setting up a comprehensive program

1 statewide to recover debris from natural disasters, recycle this
2 material. We're working with the Office of Planning and
3 Research on base closures and recovering those materials.

4 Procurement is another area, the buying of
5 recycled materials, and I have led many of Board's efforts in
6 that area.

7 Finally, I would like to highlight the invaluable
8 critical enforcement function that the Board plays. We are here
9 to enforce high environmental standards for the operation of
10 landfills, and as well for compost material recovery facilities,
11 what we would lump as recycling facilities. I've pushed for
12 strong Board enforcement policies, well-trained and effective
13 local enforcement agents. I've been an advocate of more
14 training for these local enforcement agents, and for a rigorous
15 evaluation of their performance.

16 In summary, I've been a strong advocate of AB
17 939, and I've helped develop effective working relationships
18 with a broad range of industry and environmental organizations
19 and the waste industry itself. I'm proud of the accomplishments
20 of the Board, and I appreciate your consideration today before
21 my confirmation hearing.

22 Thank you.

23 SENATOR LEWIS: Thank you, Mr. Relis.

24 Any questions from Members of the Committee?
25 Senator Ayala.

26 SENATOR AYALA: As you probably know, Senator
27 Brulte and I represent an area with the largest desert.

28 MR. RELIS: Yes.

1 SENATOR AYALA: How do you feel about the desert
2 as a good location for disposing of urban and suburban waste? Do
3 you support that? I know it's a local government declaration.

4 MR. RELIS: Well, I can explain my approach.

5 We had the first of the major desert landfills,
6 the Mesquite landfill, was approved for operation by our Board
7 just a little over a month ago. That was after a very careful
8 study of the environmental considerations related to that
9 project.

10 The Board's purview in considering applications
11 and permits is fairly narrow. Many people are concerned about
12 the broader issue, should landfills be built in the desert or
13 not. It's not in the Board's purview to make that decision.

14 We are obligated to focus strictly on the
15 operation and enforcement of state minimum standards, and that's
16 how I make my evaluation. Does the landfill meet the state's
17 enviornmental laws, and for the health and safety of landfill
18 operations as stated under the law, and that's what I look at.
19 So, it's a case by case analysis.

20 SENATOR AYALA: You're involved in the permit
21 section a dump site. Would you approve a site that would have
22 the probability of underground contamination of water?

23 MR. RELIS: Well, I would be very concerned about
24 it.

25 As you may know, under AB 1220 several years ago,
26 the overlap between the Board, the Waste Board and the Water
27 Board, a line was drawn between our two functions saying that
28 the Waste Board shall not second-guess the Water Board on water

1 issues, and vice-versa.

2 The main decision regarding water issues is that
3 of the Water Board. And we look to what their decision is
4 regarding those concerns.

5 SENATOR LEWIS: Any other questions at this
6 time?

7 Anyone in the audience wishing to testify in
8 behalf of the nominee? Please come forward. Apparently not.

9 Anyone in the audience wishing to express
10 opposition or any reservations at this time?

11 SENATOR BRULTE: Move it.

12 SENATOR LEWIS: We have a motion by Senator
13 Brulte. Please call the roll on the confirmation.

14 SECRETARY WEBB: Senator Ayala.

15 SENATOR AYALA: Aye.

16 SECRETARY WEBB: Ayala Aye. Senator Brulte.

17 SENATOR BRULTE: Aye.

18 SECRETARY WEBB: Brulte Aye. Senator Hughes.
19 Senator Lewis.

20 SENATOR LEWIS: Aye.

21 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

22 CHAIRMAN LOCKYER: Aye.

23 SECRETARY WEBB: Lockyer Aye. Four to zero.

24 SENATOR LEWIS: Four to zero, congratulations.

25 MR. RELIS: Thank you very much.

26 CHAIRMAN LOCKYER: If you would open the roll,
27 please, on Mr. Duque.

28 SENATOR LEWIS: Please open the roll on Mr.

1 Duque's confirmation. The current vote is Ayes three, Noes
2 zero.

3 SECRETARY WEBB: Lockyer.

4 CHAIRMAN LOCKYER: No.

5 SENATOR LEWIS: Three to one: Ayes three, noes
6 one. Mr. Duque is confirmed.

7 SENATOR LEWIS: Senator Costa, please come
8 forward.

9 We would ask Mr. John Brown to please come
10 forward.

11 Senator Costa.

12 SENATOR COSTA: Thank you very much, Mr. Chairman
13 again and Members of the Rules Committee.

14 I also wanted to introduce Mr. John Brown who has
15 served on the State Water Resources Control Board as the Vice
16 Chairman, I believe, since 1993, when he was first appointed by
17 Governor Wilson.

18 Mr. Brown has an extensive background in civil
19 engineering in which he has distinguished himself over the last
20 three decades. He not only has the personal experience and the
21 educational background as a graduate at Cal. State University at
22 Los Angeles, but he also understands very well the issues
23 surrounding water, water quality, and water law that is so
24 important not only to California's past, but to its present, and
25 more importantly, to its future.

26 Water issues can be contentious, and Mr. Brown
27 knows that extremely well. In an attempt to try to improve
28 water quality for all citizens of California, I believe that

1 Mr. Brown has done a good job during the years that he has
2 served on the State Water Quality Control Board, which is why
3 I'm here this afternoon, to ask Members of the Rules Committee
4 to support his renomination for his second term.

5 In spite of that, there's a lot of information
6 and issues, articles that he has published. He also happens to
7 be from the Valley and grew up in the Tulare area there, and
8 went to College of the Sequoias.

9 I've known him personally for a number of years.
10 I believe that he'll continue to do a good job if the Senate
11 secures his nomination for a second term.

12 SENATOR LEWIS: Thank you, Senator Costa.

13 Welcome, Mr. Brown. The Committee has certainly
14 been made aware of an impressive array of support that you have
15 gathered for your confirmation.

16 With that, do you have an opening statement that
17 you'd like to make at this time?

18 MR. BROWN: Thank you, Mr. Chairman, Senators.

19 It has indeed been my pleasure and privilege to
20 serve the State of California during these last four years.
21 I've enjoyed the term immensely. It's been a considerable
22 different assignment from my previous professional career.

23 I've spent 30 years in this state as an engineer,
24 working from the Imperial Valley up to Crescent City, and the
25 last 12 years now in Sacramento.

26 In my earlier professional career, working as a
27 civil engineer, and before that for the Irvine Ranch in Southern
28 California, it was my job as an engineer, to help identify

1 problems and solutions to those problems.

2 The last four years in state government, I find a
3 job just a little bit different in that we base our decisions
4 upon the rules of evidence. We listen to the testimony, and
5 all people who come before us have an equal and fair chance to
6 present their case. And our Board does that very well, and I've
7 been very proud to have been a part of this State Water
8 Resources Control Board during the last four years. I'm very
9 honored to be before this Committee.

10 SENATOR LEWIS: Thank you very much.

11 Any Members of the Committee have any questions
12 at this point? Senator Ayala.

13 SENATOR AYALA: Mr. Brown, what do you consider
14 the major water quality issues facing California today?

15 MR. BROWN: Senator Ayala, that's an excellent
16 question.

17 The major issue within California water resources
18 today is the imbalance of supply versus demand.

19 With the influx of people that we have in our
20 state, I think we're now at 32 million, and we're projected to
21 go close to 50 million by the year 2010 Or 2020. And the
22 existing water supply being in the neighborhood of 33 million
23 acre feet a year, while the demand today is about 35 million
24 acre feet a year, which results in a 2 million acre foot
25 shortfall annually.

26 This shortfall is currently being made up by
27 mining groundwater basins, mainly in the San Joaquin Valley and
28 the Salinas Valley, and other parts of the state.

1 With the projections with the loss of the
2 Colorado River water, which I know you're well aware of,
3 Senator, 662,000 acre feet to the Central Arizona Project, we're
4 programmed to lose, we will probably lose additional water
5 rights.

6 Indian claims on the Colorado River. There's
7 five tribes over there, as you know, that have additional claims
8 that could result in maybe 2-400,000 acre feet more water.

9 And the influx of the additional people moving
10 into California, 600,000 to 7 or 800,000 people a year, that
11 shortfall is projected to grow in the neighborhood of 5 or 6
12 million acre feet a year. That's our problem.

13 And with that shortfall existing like it is, it
14 has fallouts, like with the Bay-Delta issues, and the mining of
15 groundwater basins and such. That's probably our most concern,
16 Senator.

17 SENATOR AYALA: The discussion of the Auburn Dam,
18 at one time I felt it was a regional issue, but I think it's
19 very much a state issue now. Building that dam would provide
20 water that would be needed for water quality standards for the
21 Bay without taking water interests from those who already very
22 permits from the state, from Northern to Southern California.

23 What is your position on the construction of
24 water delivery projects from Northern California to Southern
25 California?

26 MR. BROWN: My position is that I think we should
27 pay our own way in water resources, whatever we do. I don't
28 believe that the people who are responsible for water resources

1 today, ourselves, should be mining water resources from future
2 generations.

3 We may have disagreements on how to do this, and
4 how to balance supplies with demands, and that's fair and is to
5 be expected. But when the different factions, whether it's
6 agriculture, or the environmental community, or the domestic
7 water users community, when we're done discussing how it should
8 be done, and arguing over whose right is what, at least we
9 should agree up front that we will not use collectively more
10 water than what we're entitled to use.

11 If we do come together and develop a program
12 where we can balance supplies with demands, then the answer to
13 your question is, what are the best options to do this? And if
14 we balance supply with demand, we really only have two options.
15 We either have to develop more new projects, or we have to use
16 less water.

17 We've been trying to develop new projects in this
18 state since -- the last one was in 1982, which was New Melones
19 Dam and Reservoir. That's probably the -- it is the last major
20 project this state has developed.

21 But nevertheless, we should continue looking for
22 new projects, whether it's Auburn Dam, or Cottonwood Creek
23 Reservoir, or Los Banos Grandes Dam and Reservoir, or the Kern
24 County Groundwater Bank, we should look at new projects to help
25 meet our deficit in water supply.

26 In addition to, we should be looking at using
27 less water, conserving water like I know you've helped to
28 encourage in the Imperial Valley. A considerable amount of

1 conservation has taken place there. And also in the San Joaquin
2 Valley, we've been privileged to see the agricultural community
3 to go from furrow irrigation, and flood irrigation, into drip
4 and sprinkler, and that has saved water.

5 So, there's lots of ways the urban community can
6 conserve water, and they're doing that with some of their -- the
7 improved conservation measures with low-flush toilets, and the
8 shower heads, and all those count.

9 So, the answer to your question, what are the
10 best options to meet supply with demand, and they can be
11 determined and figured out. And I think the water community is
12 working very hard at doing that, Senator.

13 SENATOR AYALA: There's an existing statute that
14 protects the area of origin as it pertains to water.

15 Do you think it's sufficient to protect the north
16 so that water would not be taken from that area, or anywhere
17 else in the state, without protection of the area of origin.

18 Do you think existing law is sufficient to
19 protect the north?

20 MR. BROWN: I hope it is, because there's lots of
21 -- there are several areas of origins that I know with the
22 Mountain County Water Resource Agencies which I've followed for
23 years. These people have wonderful ground in which to develop.
24 They're getting a lot of the urban pressures on their
25 communities now.

26 Some of those communities, as you know, have had
27 their water resources developed and taken from their areas of
28 origin, to where many of them today really do not have enough

1 water to meet their own existing needs, much less the projected
2 needs.

3 It's important that we protect those areas of
4 origin because those folks don't really have an alternative
5 plan. Down in the valley, we can do things like water
6 marketing, and transfers, and conservation and reclamation, and
7 come up with some additional sources of supply.

8 But when you're in the foothills and the
9 mountains, they really can't do that up there. They're relying
10 heavily upon the rainfall and water that falls within those
11 areas. So, we need to be very sensitive to these areas and make
12 sure that we leave them with enough water to take care of their
13 needs, because their plan, too, is very difficult.

14 SENATOR AYALA: So, you feel that the existing
15 statute is sufficient, if it's adhered to, to protect the area
16 of origin?

17 MR. BROWN: The answer is, I hope so, Senator,
18 but I don't know.

19 SENATOR AYALA: Do you think we should put it
20 into the Constitution as an amendment to make sure that it's
21 more difficult to change?

22 Some of my northern friends feel that it's so
23 easy to change, 21 votes in the Senate, 41 in the Assembly, and
24 it's changed. And they don't feel secure with that existing
25 statute, but an amendment to the Constitution would be more
26 difficult to change and to give northern area of origin
27 protection that they -- they'll probably use another excuse to
28 fight it, but at least they won't be able to fight it before

1 because they lose their water.

2 None of the bills that I'm aware of always
3 protected the north in terms of taking water that was ear-marked
4 for the area of origin, not a drop would go south until those
5 users were protected.

6 So, I suppose that if you put it in the
7 Constitution, there'll still be some people that would fight it
8 anyway, but at least it would be maybe a few less than
9 before.

10 MR. BROWN: I would leave that to the good
11 judgment and wisdom of the Legislature if we need better laws
12 there.

13 SENATOR AYALA: Thank you.

14 SENATOR LEWIS: Thank you.

15 Anyone in the audience wishing to testify in
16 behalf of Mr. Brown's confirmation? Please come forward.

17 MR. MACOLA: Yes, Mr. Chairman, Members. I'm here
18 at the request of the Moulton Niguel Water District, the Newhall
19 County Water District, and also myself.

20 I am Stephen Macola. I had the honor of serving
21 as the Senate's water consultant for 20 years.

22 I recommend Mr. Brown to you without
23 qualification, and I ask for your yes vote in this confirmation.

24 And I thank you.

25 SENATOR LEWIS: Thank you, Mr. Macola.

26 Next, please.

27 MR. STAHL: Members of the Committee, my name is
28 Jim Stahl. Like the person before me, for the sake of

1 efficiency, I'll testify for a number of people.

2 Mike Dillon, who is the Executive Director of the
3 California Association of Sanitation Agencies, is upstairs at a
4 Business and Professions Committee hearing, and so as a past
5 President of CASA, I would like to support without any
6 qualifications the nomination of Mr. Brown for appointment to
7 the State Water Resources Control Board.

8 I'm also, for living, I am the Assistant Chief
9 Engineer and General Manager of the Los Angeles County
10 Sanitation District. We represent some 78 cities and 5 million
11 people in Los Angeles County. We, too, as an organization would
12 like to give our unqualified support for Mr. Brown.

13 I might say to you as an individual and someone
14 that has dealt with him, his attributes are unquestioned in my
15 mind as far as someone who studies the issues. He is a
16 listener. He is accessible, and he gives well-reasoned
17 decisions.

18 I don't want to in any way tell you that I always
19 agree with him, but I think that anybody who has those
20 attributes and sits on a board is someone that deserves another
21 term.

22 Again, I would recommend his unqualified service
23 again on the State Water Resources Control Board.

24 SENATOR LEWIS: Thank you very much.

25 MR. STAHL: Thank you.

26 SENATOR LEWIS: Any further testimony in behalf
27 of the confirmation?

28 Any testimony in opposition to the confirmation,

1 or anyone wishing to express reservations?

2 Mr. Brown, we don't currently have a quorum, so
3 we're going to excuse you temporarily, and when we reestablish a
4 quorum, at that point in time we'll call for a vote.

5 MR. BROWN: Thank you, Mr. Chairman.

6 [Thereafter, SENATOR AYALA moved
7 the confirmation, and the final
8 vote was 5-0 to recommend
9 confirmation to the Floor.]

10 SENATOR LEWIS: We will, however, proceed with
11 the agenda and ask Mr. Richard Bilas to please come forward.

12 MR. BILAS: Senators, I do have a brief
13 statement.

14 I am pleased to be here this afternoon to present
15 my credentials to this committee.

16 I bring to this position at the CPUC
17 26-and-a-half years of experience in teaching and researching
18 the economic theory of markets and market power.

19 I started my career at the University of Southern
20 California back in the early 1960s, and was on the initial
21 faculty at the State University in Bakersfield when it opened in
22 1970.

23 In 1987, I was appointed to the California Energy
24 Commission and served eight-and-a-half years there, from March
25 of 1987 through August of 1995, during which time I helped
26 introduce interstate gas pipelines into the State of California
27 to bring about true gas-on-gas competition. And also chaired
28 three electricity reports for the Energy Commission, where I

1 learned a good deal about the electric utility system in this
2 state.

3 I left the Energy Commission in August of 1995,
4 to take a position at the University of Oklahoma, where I had
5 the John A. and Donnie Brock Chair in Energy, Economics and
6 Policy, and for a year-and-a-half taught at the University, and
7 also helped several of the members of the Senate and members of
8 the Corporation Committee ferret out the problems that they were
9 seeing in electricity restructuring in their state.

10 With the issues of gas, electric and telecom
11 restructuring brings many challenges to the State of California.
12 Challenges such as, how do we curtail market power were it to
13 exist? Is there adequate consumer protection?

14 I believe my knowledge of market power issues and
15 competitive market fundamentals is of considerable value to us
16 as we make the transition in these heretofore regulated
17 industries to full consumer choice.

18 While on the Energy Commission, I believe I
19 earned the reputation of being open, fair, thoughtful, and
20 independent. I hope you will give me the opportunity to once
21 again serve the people of this state.

22 SENATOR LEWIS: Thank you very much, Mr. Bilas.

23 Senator Ayala, any questions?

24 SENATOR AYALA: I have no questions.

25 SENATOR LEWIS: Anyone in the audience wishing to
26 testify in behalf of Mr. Bilas's confirmation? Anyone in the
27 audience wishing to express reservations or opposition at this
28 point in time?

1 You're getting off pretty easy, Mr. Bilas.

2 MR. BILAS: Thank you very much.

3 SENATOR LEWIS: Why don't you give us a little
4 update on what's happening with electrical restructuring?

5 MR. BILAS: We are getting prepared to move
6 forward on 01/01/98. We have few formidable issues before us,
7 but if the software works, which we haven't seen yet, but if the
8 software for independent system operator works, and for the
9 power exchange works, I think we will be ready to go.

10 We are studying divestiture right now, and we're
11 moving forward on the divestiture front, which will help us
12 overcome the competition transition charge, if we can have these
13 utilities be able to sell their power plants that they had said
14 they would sell.

15 We are working on affiliate rules right now so
16 that it's a level playing field, so that the regulated arm and
17 the deregulated arm don't have different rules by which they
18 operate.

19 I think once we solve those problems, we'll be
20 ready to go. We've approved direct access for all consumers
21 beginning 01/01/98.

22 Marketers and aggregators are currently
23 registering. They began their registration process July 1. On
24 November 1, individuals and other entities will be able to
25 petition for direct access from their supplier, apply for direct
26 access.

27 And we'll find out by the end of November just
28 how many organizations are going to be taking -- taking

1 advantage of direct access. That make cause a bit of a bottle
2 neck, but we're prepared to handle that when and if that
3 develops.

4 I think in answer to your question, Senator
5 Lewis, and I know you'd like to keep me here the rest of the
6 day, and I'd be very happy to continue to talk. As a former
7 college professor, we always talk in 50-minute blocks, so it's
8 never a difficult task.

9 I think in a nutshell, we're about ready to go.
10 And we're looking forward to going, because we want to give
11 consumers real choice. I think that's the key to all of the
12 deregulation and restructuring matters.

13 SENATOR LEWIS: Thank you very much. We're still
14 operating without a quorum, so please take a seat in the
15 audience and we will move forward.

16 [Thereafter, SENATOR AYALA moved
17 the confirmation, and the final
18 vote was 5-0 to recommend
19 confirmation to the Floor.]

20 SENATOR LEWIS: At this point in time, we invite
21 Mr. Frank Boren to please come forward.

22 SENATOR LEWIS: Mr. Boren, welcome to the
23 Committee.

24 MR. BOREN: Thank you.

25 SENATOR LEWIS: Would you like to give some kind
26 of an opening statement?

27 MR. BOREN: I didn't prepare one, but I would
28 like to be reappointed. I believe I have the institutional

1 memory. I have a business background, and I have some
2 environmental credentials.

3 I feel I can bring a balance and bridge those
4 parts of our society to better decisions.

5 SENATOR LEWIS: Thank you.

6 Senator Ayala, any questions?

7 SENATOR AYALA: I have no questions at this
8 point.

9 SENATOR LEWIS: Mr. Boren, what's the most
10 difficult decision you've had to make so far on the Commission?

11 MR. BOREN: The severity of the California
12 Endangered Species Act, the lack of flexibility in it, and the
13 need for peer group science to administer it.

14 SENATOR LEWIS: Anyone in the audience wishing to
15 testify in behalf of the confirmation? Why is everybody here
16 today?

17 Anyone had the audience wanting to testify in
18 opposition or express concerns?

19 Okay, you're getting a pretty good pass today.
20 Thank you for appearing.

21 [Thereafter, SENATOR BRULTE moved
22 the confirmation, and the final
23 vote was 5-0 to recommend
24 confirmation to the Floor.]

25 SENATOR LEWIS: Mr. Michal Moore, please come
26 forward. Good afternoon.

27 MR. MOORE: Good afternoon, Senator, Senator
28 Ayala.

1 Mr. Chairman, I'm honored to be with you today to
2 ask for confirmation to my appointment to the California Energy
3 Commission.

4 I have served as the economist designated
5 appointee since October of 1995, when I completed the unfinished
6 term of Richard Bilas, whom you just saw, who has been moved to
7 the CPUC.

8 I am performing my duties at a critical point in
9 history, due largely to the passage of a bill authored by
10 Senator Brulte, which is resulting in a reconfiguration of the
11 entire electricity industry in California.

12 The new energy markets will demand competitive
13 and innovative regulatory systems. In the face of that demand,
14 the California Energy Commission is reinventing itself,
15 streamlining and systematically removing imbedded obstructions
16 and inefficiencies. I'm very proud of the fact that I have
17 participated in and provided the impetus for many of these
18 changes.

19 Two very large scale projects which I direct
20 currently are dominating my time. The first of these is the
21 design and eventual implementation of the AB 1890 Renewable
22 Energy Program, and the second is the rule making for
23 information and data collection that will ultimately impact
24 anyone seeking data and analysis in the energy field.

25 My goal is to create a legacy that reflects a
26 cooperative, progressive partnership between government and
27 industry, designed to ensure not only consumer confidence, but
28 the most cost effective and reliable energy system in the

1 world.

2 I offer you my credentials, and I'm pleased to
3 answer any questions you may have, Senator.

4 SENATOR LEWIS: Thank you very much.

5 Senator Ayala, any questions?

6 SENATOR AYALA: Yes.

7 Mr. Moore, one of the questions that comes up
8 quite frequently, why is it that gasoline prices peak so quickly
9 and stay there for a while? Is there any way that you folks are
10 involved with that action?

11 MR. MOORE: Senator, we're not involved in any
12 way in the forces that cause the peaking.

13 But where we are and have been involved is in the
14 record keeping and the reporting out of what the changes are so
15 that the consumers, and you, the Legislature, have a better
16 opportunity to respond, more informed opportunity to respond.

17 We haven't done that as well we thought we were
18 going to do in the past. We've been starting to revise the
19 procedures for reporting. And frankly, I think that at the end
20 of the fall of this year, when the new data collection
21 techniques are in place, we'll be able to give you a read-out on
22 trends in fuel prices across the board, and that includes diesel
23 as well as gasoline, that will allow you to make a more
24 reflective choice, if you will, about legislation that will
25 either regulate or influence those prices.

26 If your question goes a little bit farther and
27 goes to the question of, should those prices be so high, should
28 the gasoline producers be able to pass on as much of that cost

1 as they are, our opinion is that some of those price increases
2 have been, if you will, profit taking on the part of the
3 producers, and we think that one way to bring that down in the
4 future is to give the consumer a little bit more choice to let
5 them understand what's going on, and make them put the pressure
6 on the producers by changing their buying habits, so they'll, in
7 fact, influence the cost in such a way that they come down.

8 So, while we don't directly regulate those, we
9 certainly study them. And hopefully, in the end of this year,
10 our study methodologies will produce a little bit better results
11 for you.

12 SENATOR AYALA: We have had a number of
13 shortages, gasoline, at least at the pumps, anyway.

14 How far does it go back? Some people blame OPEC
15 all kinds of explanations.

16 However, I can give you a little quick story of
17 what happened many years ago, when we had one of those long
18 lines at the service station. We had a hearing here in
19 Sacramento, and a city from the Delta -- I forget what city it
20 was -- but the Chief of Police was here, along with officials,
21 because the State Allocation Board had given those people more
22 fuel because they were having a crime problem. And they were
23 allocated more gas than they were entitled to during that
24 crisis.

25 It develops that they were all thrilled because
26 of the additional fuel, but when they got home, they didn't know
27 where to put it. Their yard tanks were full. So, a clever
28 councilman said, we've got a number of service stations that

1 have been closed now for quite a while. Why don't we go in and
2 put our gas into these empty tanks underground? Every one of
3 those tanks were filled to the brim, yet the stations were
4 closed.

5 That's what I'm saying. People are confused by,
6 yes, there's a shortage all right, we notice it at the pumps,
7 but where else is the shortage? I don't really know, and that's
8 a matter of record, by the way, what I'm saying.

9 All those stations that had closed because of
10 lack of gasoline had their tanks in the ground full to the brim,
11 and the city couldn't find a place to put their additional fuel
12 for police protection.

13 I just wonder whether the crises really occur
14 when we have one of those shortages.

15 MR. MOORE: Senator, I'm unaware of the example
16 that you gave, although I'm certainly interested in it. I
17 promise you, I'll know more about it by tomorrow than I do
18 today.

19 In terms of the capacity questions that you ask,
20 right now we have data, and we maintain a good list of what the
21 refining capacity is. We know when there are outages, and we
22 know when there is a down period for any given refinery.

23 Since that ultimately does influence the price
24 and availability of the refined product, the end product, we are
25 trying to make that more available, not only in an aggregated
26 sense so you can find out -- not you personally -- but so the
27 public can identify exactly what refinery is going down and gain
28 a competitive advantage.

1 So, we can identify the trends and know
2 beforehand when to expect price shocks. That information is
3 being made more freely available and in a more timely basis to
4 the Legislature as well.

5 SENATOR AYALA: Thank you.

6 MR. MOORE: Thank you, Senator.

7 SENATOR LEWIS: Thank you very much.

8 Anyone in the audience wishing to testify in
9 behalf of the nominee? Anyone wishing to testify in opposition
10 or express reservation?

11 Thank you for being with us today. Unless we
12 reestablish a quorum, we will have a vote on your confirmation
13 as well.

14 MR. MOORE: Thank you, Senator.

15 [Thereafter, SENATOR AYALA moved
16 the confirmation, and the final
17 vote was 5-0 to recommend
18 confirmation to the Floor.]

19 SENATOR LEWIS: Senator Thompson, why don't you
20 come forward. I understand you want to share some information.

21 SENATOR THOMPSON: Thank you, Mr. Chairman. I'm
22 sorry I wasn't here when you took up the PUC appointments, but I
23 did want to come in and mention that, as all the Members know
24 because of communications I've sent the Committee, I've been
25 concerned that the PUC has not promulgated regulations as they
26 were supposed to as a result of this Legislature passing SB 48,
27 and the Governor signing that will into law a few years ago.

28 That bill came about because of the

1 Dunsmuir-Cantera Loop spill that happened in, I think, it was
2 1991. And we passed that legislation right after that.

3 I have met with the two Commissioners who were up
4 today, and feel confident that they are interested in and will
5 be working toward passage or adoption of those regulations.
6 And further, that the regulations will be done in such a way
7 that they not only address the concerns of this Legislature and
8 the Governor, but they're also done in a way that they will hold
9 accountable those people who transport potentially dangerous
10 materials along our rail lines.

11 Having met with both Commissioners and been
12 assured that this is what's going to happen, I would urge that
13 their appointment be viewed favorably.

14 SENATOR LEWIS: Very good, thank you, Senator.

15 [Thereupon. This portion of the
16 Senate Rules Committee hearing was
17 terminated at approximately 2:55 P.M.]

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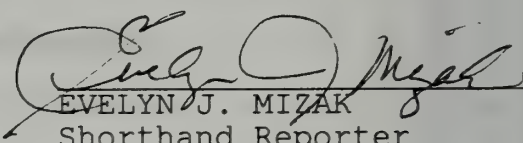
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2:06 P.M.

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6 HEARING

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12 SACRAMENTO, CALIFORNIA

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16 MONDAY, AUGUST 25, 1997

17 2:06 P.M.

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26
27 Evelyn J. Mizak
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APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

SHANNON HOOD, Consultant to SENATOR BRULTE

ALSO PRESENT

TIRSO DEL JUNCO, Member
The Regents of the University of California

WILLIAM F. FRIEDMAN, M.D., Member
State Air Resources Board

LAWRENCE J. GOLDZBAND, Director
Department of Conservation

SENATOR JIM COSTA

MARK MURRAY
Californians Against Waste

GLENDA HUMISTON, President
California Association of Resource Conservation Districts

ERIK VINK
American Farmland Trust

DENISE DELMATIER
Norcal Waste Systems, Inc.

1 EUGENE B. NEBEKER, Ph.D., Member
2 California Regional Water Quality Control Board
Lahontan Region

3 R. LYLE TALBOT
4 Desert Citizens Against Pollution

5 IVONNE R. RICHARDSON, Member
6 Agricultural Labor Relations Board

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SENATOR HILDA SOLIS

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: We'll skip legislation for the moment to try to get to accommodate schedules of appointees. So, I believe we'll jump to number four on our calendar, Dr. William Friedman, Member of the Air Resources Board.

Good afternoon, sir.

DR. FRIEDMAN: Good afternoon.

CHAIRMAN LOCKYER: Do you want to start with any comment at all?

DR. FRIEDMAN: Let me just introduce myself.

My name is William Friedman. I'm a medical doctor. My field of specialty is heart disease in infants, children, adolescents, pediatric cardiology.

I came to California in 1968 to start the Medical School in San Diego, and in 1979, went to UCLA to be the Chairman of Pediatrics and to receive the endowed Chair in Pediatric Cardiology. Served for 15 years in that capacity, became the senior advisor to the dean and provost, and I've just been appointed the Academic Dean of the UCLA School of Medicine.

I view my assistance to the work of the Air Resources Board to be in the area of defining health concerns, looking at the science that is offered up to base decisions upon, and looking at the manner in which the Board supports and proposes research.

If I can answer any questions, I'll be happy to do so.

1 CHAIRMAN LOCKYER: All right. Let me ask Members
2 if there are any questions?

3 Perhaps I'll start. You've served now for
4 several months on the Board?

5 DR. FRIEDMAN: Yes, I have.

6 CHAIRMAN LOCKYER: Since last December.

7 DR. FRIEDMAN: Actually, I think January, but
8 it's enough.

9 CHAIRMAN LOCKYER: What was the most difficult
10 issue that's come before you in that time?

11 DR. FRIEDMAN: Well, frankly, Senator, it reminds
12 me of being a freshman medical student. The most difficult
13 thing is learning a new vocabulary, very seriously. There's so
14 many initials.

15 I have read volumes of material sent to me before
16 each meeting. Some of the most interesting have involved health
17 directly. The issue of lead in the air, for example, was one
18 that I was particularly interested in because I've be dealing
19 with lead intoxication since about 1960, when I was at Johns
20 Hopkins. It was a hotbed of lead intoxication. So, for a
21 personal point of view, that's been the most interesting.

22 But the growth -- the slope of my understanding
23 of what the issues are has been so steep, and I don't expect it
24 to end for a long time. It's a new field for me, the biology of
25 pollution, and it's what interested me about serving in the
26 first place. At my age, you don't get an opportunity to learn
27 something really new too often.

28 CHAIRMAN LOCKYER: Other than the learning curve

1 issues, there's no particular debate that was before the Board
2 this year that was a close call that you'd want to tell us
3 about?

4 DR. FRIEDMAN: I don't think there has been.
5 I've spent a lot of time traveling around, seeing the research
6 being done about air pollution at UC Davis, and USC, UC Irvine,
7 and also visiting some of the ongoing research programs seeking
8 to define health.

9 With respect to specific issues, there hasn't
10 been remarkably contentious issues. The Board has tended to
11 more or less agree on most of the things in front of them, and
12 there's been an awful lot of informational items, nonremarkable
13 action items thus far.

14 CHAIRMAN LOCKYER: Have you participated in
15 discussions of the State Implementation Plan and its specifics,
16 or did that predate?

17 DR. FRIEDMAN: As you know, the Implementation
18 Plan, I guess, goes back to about 1994. I've been learning a
19 lot about it, since everything we do, or if we alter anything,
20 often there is a requirement to alter the SIP.

21 Of course, now with the federal EPA, our
22 compliance -- I think that we're well within the compliance.
23 Our state is much more rigorous, in fact, than most of the
24 federal legislation.

25 But I haven't been conversant with, nor am I yet,
26 on what I keep reading in the papers, though. Various groups
27 will have one or another problem with one or another part of the
28 SIP. The SIP seeks, I think, to just protect us all. And if

1 there has to be a change, it needs to be based on very solid
2 science and evidence.

3 But I'm not -- I've seen the SIP. I have it in
4 my office.

5 CHAIRMAN LOCKYER: You haven't had to make
6 choices yet about changes in it, and what trade-offs would be
7 contemplated?

8 DR. FRIEDMAN: That's correct.

9 CHAIRMAN LOCKYER: Has there been active
10 discussion of Smog Test Two at the Board level?

11 DR. FRIEDMAN: There's not been active discussion
12 at all. We are in receipt of communications about what the
13 concerns are of the Legislature, of the people who are doing
14 repairs, of the consumer and all that, but it hasn't reached us,
15 nor have I received a full sort of pros/cons implications type
16 of communication yet to allow any sort of intelligence about the
17 issue.

18 CHAIRMAN LOCKYER: It's my understanding that the
19 staff, at least, have been involved in negotiations with the
20 Legislature to make changes in the current program.

21 If that's true, it would seem odd not to seek
22 Board approval and direction for those efforts.

23 DR. FRIEDMAN: Well, I think that they're working
24 -- I may misspeak.

25 I believe that they are working with the people
26 who are most unhappy with Smog Check Two to see how much
27 commonality there can be to avoid important contentiousness.

28 But I think that my own understanding is that

1 there will be time to bring that to full discussion of the
2 Board.

3 CHAIRMAN LOCKYER: Other questions from Members?
4 Senator Hughes.

5 SENATOR HUGHES: I see, according to your resume,
6 Doctor, that you are a graduate of Columbia University?

7 DR. FRIEDMAN: Columbia College, yes.

8 SENATOR HUGHES: Medical school.

9 Did you go to high school in New York?

10 DR. FRIEDMAN: I was born in Brooklyn, and I went
11 to high school at Jamaica High School when we moved to the
12 country; when we moved to Queens.

13 SENATOR HUGHES: I used to live in that country,
14 too, in Queens. I detected a little culture in your accent.

15 [Laughter.]

16 SENATOR HUGHES: And I appreciate it. You make
17 me feel at home.

18 I don't know about you, but with me, I had a
19 great problem understanding things like smog, and air pollution,
20 not realizing that had been born and raised in it. And I wasn't
21 as sensitive as I should have been until I came to California,
22 where I really saw what it was all about, because as we looked
23 up in the jungles and finally reached what we found out was sky,
24 through all of the high rises, I really wasn't aware until I
25 moved to do suburbs of New York City about what that smog was
26 all about.

27 So, I think here in California, my point is that
28 we are more conscious, not being raised in the jungles of a

1 large city, of the pollution of our air.

2 This bothers me a great deal because in my
3 district, I have some areas in my community that, because of the
4 topography of the cities and their location, have a lot of
5 problems with smog.

6 In your practice as a pediatrician, did you have
7 a private practice? I understand you're doing academic medicine
8 now?

9 DR. FRIEDMAN: I have all my life, but I have
10 always had a large private practice of pediatric cardiology,
11 people from all over the world.

12 But you were about to ask me a question about
13 children and smog?

14 SENATOR HUGHES: Yes.

15 DR. FRIEDMAN: I have been about as vigorous an
16 advocate for public health and for child health as probably most
17 anybody in the state. I'm particularly concerned because kids
18 tend to be the most fragile, and sometimes the most labile
19 amongst us.

20 I'm encouraged that there's recognition, at least
21 on the part of the ARB people that I keep talking to, that if we
22 aim, if you will, at the most vulnerable populations with
23 respect to air quality, that will include children. I mean, you
24 could talk about the deleterious effects of smog on a
25 seven-year-old, but the most sensitive individual may be the
26 64-year-old with severe coronary artery disease or emphysema.
27 So, if you protect that most vulnerable person, you'll also be
28 creating a floor of security probably for all the children.

1 But it remains to be seen. I mean, I will
2 continuously look at the data to see if it is appropriate in
3 terms of that element, of that dimension. That's what I do.

4 SENATOR HUGHES: So that you're concerned about
5 both age groups, from the very young to the elderly.

6 DR. FRIEDMAN: Absolutely.

7 SENATOR HUGHES: In your position on the
8 commission, what have you done since you've been a member of
9 this commission to look at toxic air contaminants? What policy
10 areas have you pursued?

11 DR. FRIEDMAN: As I said earlier, I have visited
12 those studies which are in progress to determine for myself what
13 the validity of approach and current findings are, and all the
14 longitudinal studies of child health with respect to air
15 quality. It's taken a considerable amount of time and a
16 considerable amount of visits.

17 In terms of my own -- what I've promulgated as a
18 Board member, I've asked and have received a good reception. I
19 want us to be able to figure out the equations to use so that we
20 know what the costs will be of ill health should it occur, to
21 balance against what the cost will be to business to fix the
22 air.

23 I've been working on a monthly basis with our
24 research division to try to get some national experts together
25 to address this problem so that the Board can use this as part
26 of their deliberations in the future.

27 I've also spent a lot of time looking at the
28 research thrust of the ARB. I've been involved with granting

1 agencies, federal, American Heart Association. I've been in
2 charge of those organizations with respect to their grant
3 program, and we've been working on a variety of ways to allow
4 the Board members to understand best the justification, the
5 budget justifications for the grants that are granted to foster
6 better health and better air.

7 And those three things have really occupied a
8 significant amount of time so far.

9 SENATOR HUGHES: You bring unique expertise,
10 coming from the field of medicine. And I would expect that you
11 should be about the business of leadership in terms of
12 cautioning members about the harmful effects in terms of birth
13 defects or cancers that our constituents would be subject to.

14 DR. FRIEDMAN: I think that's entirely correct.

15 SENATOR HUGHES: As you have probably observed,
16 and as we've all observed over a period of time, it takes a long
17 time to make changes.

18 Do you have any suggestions on how we speed up
19 this process of evaluating and regulating toxic compounds?
20 Because this research might not be done for another ten years,
21 and how many lives will we have lost in the meantime? I'm sure
22 you're more up to date than any of us in this room.

23 DR. FRIEDMAN: Well, I wish I had an answer for
24 you, but that is precisely the underlying background for why
25 I've asked for the sort of analysis which will let us know that
26 if we let things delay, or get things in a delay mode, or a
27 protractive mode, I want to know what the health cost really is,
28 both in terms of health and in terms of the cost of ill health.

1 I don't know -- I really am not a politician, so
2 I don't how to goose the system effectively in one way or
3 another, but I do know if you keep banging on the need to
4 accelerate answers in one or another area, you'll eventually --
5 you'll do better.

6 I have no facility. I don't understand yet the
7 full manner in which all of the elements come together to make a
8 new regulation, or new rule, or whatever. I just plan to work
9 as hard as I can to identify what can be done in a reasonable
10 time frame.

11 I don't want us to accept bad science or bad
12 ideas, either, because I think you pay for that, perhaps, longer
13 than for, you know, rushing in. It's a delicate balance.

14 SENATOR HUGHES: Do you not feel a sense of
15 urgency as a physician, since you have a number of lives
16 involved?

17 Now, you talk about the cost, then you sound more
18 like a businessman than a physician.

19 DR. FRIEDMAN: No, when I mention cost, I said it
20 in two ways.

21 SENATOR HUGHES: You mean health costs?

22 DR. FRIEDMAN: Exactly. One is the cost -- I
23 mean, my whole life is to take care of people.

24 SENATOR HUGHES: Right.

25 DR. FRIEDMAN: So, it's cost in terms of human
26 health, and it also is cost in terms of financial
27 considerations, because those do form the basis for certain
28 specific decisions. And it's fair to show both the cost of

1 fixing the air and the cost of not fixing it, so you have some
2 notion of where you stand.

3 But it's not a financial equation. It's a human
4 equation, in my opinion.

5 SENATOR HUGHES: Since you've been on the Board,
6 what kinds of regulatory measures would you like to see proposed
7 or would you like to support to limit the kind of health hazards
8 of toxic compounds?

9 DR. FRIEDMAN: Well, there are a bunch of things
10 coming down the pike. By next fall, I guess, or spring, we're
11 going to be talking about diesel fuel. I mean, that's a major
12 issue.

13 I have not yet -- I have about this much paper on
14 my desk to read to get up to speed on that, but I think that's
15 going to be a major issue with respect to carcinogenesis, and
16 lung disease, and all the rest of it.

17 I think that the issue now, especially since the
18 federal government has changed the particulate size that we have
19 to be concerned about from PM 10 to PM 2.5, that we're going to
20 have to really understand what that means in terms of control,
21 regulation, and so forth. PM 10, those are particles that are
22 about the size of a single red blood cell. PM 2.5, which is
23 submicroscopic, is going to require a much more comprehensive --
24 much more research and much more action.

25 And, you know, it seems on the surface that these
26 compounds, these particulate compounds, are specifically related
27 to sudden death. So, we have to be very serious about that.
28 That's coming. That's on the agenda of things --

1 CHAIRMAN LOCKYER: You said sudden death, meaning
2 SIDS or people dying?

3 DR. FRIEDMAN: Not SIDS. It's people dying
4 prematurely. It's calculated -- and again, this is from what I
5 have read so far -- that episodes of remarkable particulate
6 matter infestation are associated in every instance with a
7 sudden jump in sudden death in people of all ages.

8 The SIDS problem is sudden infant death, and
9 that's a --

10 CHAIRMAN LOCKYER: Neurological, or whatever?

11 DR. FRIEDMAN: It's probably a combination of
12 cardiac, cerebral, all sorts of things.

13 So, those are the two major issues which are
14 going to be in front of the Board in this next year or so.

15 Others, I mean, you know, I came late to the
16 business of low emission vehicles, and zero emission vehicles,
17 this and that. I just want to drive one. I've got to understand
18 it first.

19 CHAIRMAN LOCKYER: They go pretty fast, but you
20 need a long cord.

21 [Laughter.]

22 SENATOR HUGHES: Doctor, have you in your medical
23 experience had a battle with trying to cure some illnesses in
24 your pediatric practice where you have had to do a lot of
25 personal research into the literature, and research with your
26 colleagues to solve some of these problems because you were
27 concerned with changing a child's quality of health?

28 DR. FRIEDMAN: Senator, I am the recipient of the

1 Distinguished Scientific Achievement Award of the American Heart
2 Association. I have been fortunate enough, and lucky enough,
3 to have done some really interesting things that you and your
4 husband would love to know about. I mean, they've really been
5 wonderful for children.

6 I introduced echocardiography to pediatrics.
7 I discovered a substitute for heart surgery in premature babies
8 that spares over 100,000 babies a year from having an
9 Operation.

10 I have defined how the heart develops with
11 respect to its nerve supply, its function, its embryology. And
12 as a result, have come up with new ways to try to interfere with
13 the process -- the consequences of bad health.

14 The first research I ever did was to discover a
15 new disease and find out what caused it, which is an unusual
16 thing to do. It's usual that people don't do that.

17 SENATOR HUGHES: Well, I think that's wonderful,
18 and I am very proud to meet you and to know that you've done
19 these things.

20 And I hope that you transfer your professional
21 enthusiasm, in terms of keeping people healthy, on this
22 commission that you serve on, in terms of seeing how you're
23 going to keep Californians healthier than we presently are.

24 Do you have any idea how you can speed up this
25 process? The whole process of decision making, in terms of
26 policies, of what contaminants we allow to still exist, and what
27 contaminants we're going to go exclude from happening in our
28 communities?

1 The reason I push on this so hard is because I am
2 under the impression, and have gotten information, that diesel
3 exhaust and toxic air occurs in higher incidents in communities
4 like I represent, in the lower income communities, where the
5 people don't have access to newer cars that have less
6 contaminated emissions and things like that.

7 So, you are the physician who is doing the
8 research. You are ahead of all of your colleagues in a way,
9 because you know about the bad effects of this.

10 What kind of leadership can we look to you for in
11 this coming year as you debate all these toxic contaminants?
12 And you, knowing better than anything of us what the negative
13 consequence can be, to speed up the process the same way that
14 you did to find this information about a new disease in
15 pediatrics, and a cure, and a treatment?

16 What are going to do in terms of your leadership
17 in helping us to solve some of these problems? Because, we're
18 really looking for leadership.

19 DR. FRIEDMAN: Senator, all I can promise you is
20 that I will be as forceful an advocate as I possibly can be for
21 the acceleration of the information that's needed to make some
22 changes.

23 I think that everybody is mindful of the hot
24 spots problem that you've just alluded to. And I think that we
25 need an across-the-board reduction in all that's unhealthful.

26 I know that we're studying this currently. It
27 has not come to the fore yet, but people -- I have been very
28 impressed with the people on the ARB who are out there, trying

1 to get the information together to allow people to make
2 decisions, and to start the process that may make changes.

3 All I can promise you is, because I am not a
4 shrinking violet, that I will be as forceful an advocate for
5 public health and child health as I possibly can be.

6 SENATOR HUGHES: Were you aware of the fact that
7 diesel exhaust has not been presented to your Board --

8 DR. FRIEDMAN: Yes.

9 SENATOR HUGHES: -- as a toxic air contaminant?

10 DR. FRIEDMAN: Yes. As I mentioned a little
11 while ago, it's on the calendar for presentation this, the year
12 that we're in, so it will be coming in front of us. It has not
13 come in front of us yet.

14 SENATOR HUGHES: When that discussion comes up,
15 will you be --

16 DR. FRIEDMAN: You betcha.

17 SENATOR HUGHES: -- equipped to lead the fight?

18 DR. FRIEDMAN: Well, I hope so. Literally,
19 there's this much in reading material. I've actually read a
20 fair amount of it so far, but there's going to be a lot more
21 before this comes in front of us. It's dangerous stuff.

22 SENATOR HUGHES: I'm very glad that you're there,
23 and I expect you to lead the charge.

24 DR. FRIEDMAN: You've made me. I'm ready.

25 SENATOR HUGHES: Thank you.

26 CHAIRMAN LOCKYER: Senator Ayala.

27 SENATOR AYALA: Dr. Friedman, Senator Brulte and
28 myself represent the west end of the County of San Bernardino,

1 probably the smoggiest area in the country due to the auto
2 emissions, not necessarily stationary sources.

3 I'm concerned about the new smog check, as a lot
4 of people are. It's very controversial.

5 Based on results to date, how confident are you
6 that the emissions reduction goal for this new test will be
7 realized?

8 Before you do that, can you tell me the
9 relationship between the ARB and South Coast Air Basin? What's
10 the relationship there?

11 DR. FRIEDMAN: Well, I mean, we have heard from
12 the South Coast. We have heard from, reporting to us, have been
13 the deliberations of the South Coast.

14 SENATOR AYALA: Are you directly involved with
15 the South Coast Air Basin?

16 DR. FRIEDMAN: No, I'm not.

17 SENATOR AYALA: We do have a statewide new
18 program for checking smog. How confident are you that that's
19 going to work, and what evidence do you have of that?

20 DR. FRIEDMAN: I must tell you, I'm not an
21 expert. I mean, clearly, smog check is designed to remove X
22 amount, X tons, from our air of volatile organic compounds and
23 so forth and so on.

24 The controversy about smog check, as I understand
25 it currently, and this has not been discussed on the Air Board,
26 so my information comes from newspapers and conversations, is
27 whether or not the smog check should be modified. And if it's
28 modified, how should it be modified at, hopefully, no loss to

1 the people of removing bad things from the air.

2 I mean, I think that everybody would like to see
3 a smog check system that is both consumer friendly and friendly
4 to the people who are doing the checks.

5 To me, until I see what's involved, and what the
6 scientific basis is, my concern is that we don't modify smog
7 check to an extent that does not remove pollutants from the
8 air. Because if we do that, we have to go back and find some
9 other way to remove pollutants. And that gets involved with
10 Senator Lockyer's question about the State Implementation Plan
11 and other changes.

12 SENATOR AYALA: That was my next question. If
13 the smog check program doesn't live up to expectations, what do
14 you think ought to be done?

15 DR. FRIEDMAN: You mean if it does not?

16 SENATOR AYALA: Absent that program, what is
17 there?

18 DR. FRIEDMAN: There is a smog check program in
19 place, and there must be some calculations, I'm not aware of
20 them, of what the rationale was, what the expected removal of
21 pollutants was going to be. And that can be checked with
22 sensors all over the place to see if we've accomplished that.
23 If we have not accomplished it, then we'd better find out why
24 not.

25 If we change smog check, and we find an increase,
26 then we have done ourselves a terrible disservice.

27 SENATOR AYALA: Is there a plan to back up the
28 current program if it doesn't live up to expectations? Are we

1 just waiting to see if it's going to work or not before we do
2 something to back it up?

3 DR. FRIEDMAN: I wish I was more knowledgeable
4 and could answer you in the affirmative, but I just don't know
5 the answer. And it may just be because I'm still -- even though
6 I've been on for a few months, a novice on these issues. I
7 don't have an answer.

8 SENATOR AYALA: You're aware enough of the
9 program to think it will work the way it's supposed to?

10 DR. FRIEDMAN: No, I am not that aware of the
11 results of the program.

12 I believe that the program has achieved an
13 important reduction in air pollution.

14 My concern is, as we try to balance what our
15 citizens want -- convenience, cost -- and what the folks who fix
16 cars to make them less pollutant --

17 SENATOR AYALA: Do you think this program has
18 achieved certain success already?

19 DR. FRIEDMAN: Well, I believe that it has
20 importantly reduced smog in the state. Whether a modification
21 may change that for the better or the worse --

22 SENATOR AYALA: When will we get to that point?

23 DR. FRIEDMAN: I don't know. I truly don't
24 know.

25 I understood -- isn't smog check, it's a
26 legislative issue currently, isn't it, whether it should be
27 changed or not? Or has it already --

28 CHAIRMAN LOCKYER: Yes, it was a plan developed

1 by ARB. The implementing legislation was enacted. The program
2 was begun and enforcement activities undertaken. Controversy
3 broke out, and it's been modestly changed legislatively. For
4 example, making clear that autos couldn't be confiscated was a
5 change in the law. There was some ambiguity about that issue in
6 the original statute.

7 And it continues. Tomorrow, in fact, there will
8 be a hearing with three bills before the Senate Transportation
9 Committee. I think Senator Ayala still serves on that. So,
10 they'll be hearing additional reform proposals here tomorrow.

11 I just think we'd like to have our work be
12 informed by your expertise whenever possible.

13 DR. FRIEDMAN: I wish I had specific answers.

14 My general impression from the months that I've
15 been on the Board is that smog check, the program itself, has
16 been one of the pivotal things that has really helped to clear
17 the air.

18 But I'm not conversant enough with what some
19 changes may do to the program. You know, if I can get that
20 information, or get it back to you, I'd be happy to make an
21 effort to do that.

22 SENATOR AYALA: I'd like to have that
23 information, because I get a lot of calls regarding this
24 particular program.

25 DR. FRIEDMAN: I will make sure that we get back
26 to you.

27 SENATOR AYALA: I know you have a real difficult
28 program or position, trying to balance ecology with economy, but

1 that we must do. We can't leave people without jobs --

2 DR. FRIEDMAN: That's part of our charge, I
3 think, to the Board, is to provide that balance.

4 SENATOR AYALA: Thank you very much, Doctor.

5 DR. FRIEDMAN: Thank you, and I will get that
6 information to your office.

7 CHAIRMAN LOCKYER: Any further questions?

8 Is there anyone with us who would care to testify
9 on the confirmation?

10 I'll note that we have received no letters of
11 opposition, so I think this is one we can move forward on
12 quickly.

13 Doctor, the letters that we have on file from
14 peers and others that know you are highly complimentary, both as
15 to your clinical commitment and scholarly work. It would seem
16 to be one of the outstanding appointments that the Governor has
17 made.

18 Senator Brulte.

19 SENATOR BRULTE: Move.

20 CHAIRMAN LOCKYER: We have motion to confirm.
21 Call the roll, please.

22 SECRETARY WEBB: Senator Ayala.

23 SENATOR AYALA: Aye.

24 SECRETARY WEBB: Ayala Aye. Senator Brulte.

25 SENATOR BRULTE: Aye.

26 SECRETARY WEBB: Brulte Aye. Senator Hughes.

27 SENATOR HUGHES: Aye.

28 SECRETARY WEBB: Hughes Aye. Senator Lewis.

1 SENATOR LEWIS: Aye.

2 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

3 CHAIRMAN LOCKYER: Aye.

4 SECRETARY WEBB: Lockyer Aye. Five to zero.

5 CHAIRMAN LOCKYER: Thank you.

6 DR. FRIEDMAN: Thank you very much. Thank you
7 all, and I'll take that very seriously.

8 CHAIRMAN LOCKYER: Keep up the good work, sir.

9 The next one we have would be Mr. Goldzband,
10 Director of Conservation.

11 Would you please call Senator Sher's office? He
12 wanted to be with us for this discussion.

13 Good afternoon, sir.

14 MR. GOLDZBAND: Good afternoon.

15 CHAIRMAN LOCKYER: Senator Costa, did you want to
16 comment?

17 SENATOR COSTA: Thank you very much, Mr. Chairman
18 and Members of the Rules Committee.

19 As you have before you Mr. Larry Goldzband, who's
20 up for confirmation as the Director of Conservation, as many of
21 you may know, I've had a long interest in the preservation and
22 protection of prime agricultural lands in California.

23 We have attempted in different ways in this state
24 to try to pursue policies that would protect and preserve prime
25 agricultural land, the Williamson Act, the Agricultural Land
26 Stewardship Program, and I've worked with him on some other
27 areas as well.

28 I think that I have found in the years, both in

1 the Department and before, that Mr. Goldzband is problem
2 solver. I think he believes that land use planning is primarily
3 the responsibility, as we all know, of local government.

4 But I think he is also very concerned that there
5 are broader state interests in land uses that need to be focused
6 on and dealt with.

7 For example, we've had two audits in two separate
8 counties in my district dealing with the Williamson Act on
9 subvention claims. One was found -- one of the audits performed
10 by he and the Department -- to be doing a good job. The other
11 county was found to be doing a job that needed some work, and
12 suggested some changes. And so, we are attempting to address
13 those concerns as it relates to one of the counties.

14 But I think that what's important to note is we
15 need to make sure that the state law is upheld, and certainly in
16 the application of this particular example that I've given you,
17 I found Mr. Goldzband to be focused on trying to ensure that the
18 law, in fact, was upheld.

19 That is really, in brief, my comments. I have
20 another meeting to go to, but I know that this Rules Committee,
21 as you do in all matters, will closely scrutinize the conduct
22 and the ability of the individual and render your best
23 judgment. So, I want to thank you.

24 CHAIRMAN LOCKYER: Thank you, Senator.

25 Okay, Mr. Goldzband. Do you want to start with
26 any comment?

27 MR. GOLDZBAND: I'd be happy to.

28 Thank you, Mr. Chairman and Members of the

1 Committee. I want to thank you for your time, and I want to
2 thank you and your staff as well for getting me through this
3 process and informing me of what I needed to do.

4 I asked Senator Costa to introduce me because I
5 am particularly proud of the Department's work to preserve farm
6 land in the State of California through the Williamson Act for
7 the near term, and through the ALSP program in the long term.

8 I expect that a number of you, including Senator
9 Sher, will have questions prepared regarding the Department's
10 implementation of the beverage container recycling law. As
11 such, I thought I would spend a couple minutes up front to let
12 you know of my thoughts on the current program.

13 First, I fully support the principles which
14 underlie the program. We should reduce litter. We should
15 reduce demand for landfill space, and as such, we should aim for
16 the highest possible recycling rate. Recycling is a pervasive
17 ethic throughout the California culture, and we should support
18 that ethic.

19 Second, the issue of manufacturers'
20 responsibility, which was initiated a decade ago when the bill
21 was first passed, continues to be an important part of the
22 program. I don't question whether manufacturers'
23 responsibility will continue to be part of the program, but I do
24 wonder how it should be carried out, and how efficient we can
25 make that process.

26 Third, I think the convenience really is perhaps
27 the biggest key to making the recycling program work well.
28 Consumers should simply not have to work that hard to recycle

1 their containers.

2 Fourth, the local conservation corps have become
3 valuable participants in the recycling process. We are working
4 with them now to solidify a real and really a quantitative nexus
5 between the monies they get from the program and the work they
6 perform. We want to ensure that the local's entrepreneurial
7 spirit is not limited by the program.

8 And finally, as we work with the program
9 stakeholders and all of you in the Legislature to gain consensus
10 around the program's reauthorization, I think we should keep
11 those principles in mind as we attempt to stabilize and, if
12 possible, simplify the program, while ensuring that we build
13 upon Californians' desire to recycle their beverage containers,
14 and working through the process to do so.

15 With regard to the Surface Mining and Reclamation
16 Act, I'm pleased to tell you that we're implementing a fair and
17 tough enforcement strategy, which I announced in April, to
18 ensure that mines in California will be reclaimed without public
19 funding after their productive lives are over.

20 And we've also secured funding, thanks to the
21 Governor and the Legislature, to increase the local government's
22 knowledge of where minerals are, so that they can account for
23 their presence in local general plans, and working with a wide
24 variety of stakeholders to identify and make sure we have a
25 reliable inventory of abandoned mines.

26 We've worked with local governments, Sonoma
27 County, to clean up the Geysers. We have presented testimony
28 this spring to ensure the California Earthquake Authority

1 implements a rate structure which is fair to all Californians.

2 In short, the Department's doing a lot of, I
3 think, very, very good work.

4 Having been a former legislative staffer, a
5 former gubernatorial aid, having been regulated as part of the
6 gas and electric utility industry, and now as a department
7 director, I know how difficult it can be to gain consensus
8 around programs on difficult issues.

9 I look forward to working with my colleagues in
10 the administration, with all of you, with the rest of the
11 Legislature, with all of our stakeholders to present legislation
12 to the Governor which he would want to sign. To do otherwise
13 would be simply a waste of all of our time.

14 So, I look forward to accomplishing a great deal
15 more during the next 16 months. I hope to continue to work with
16 you, and I look forward to answering your questions.

17 CHAIRMAN LOCKYER: Are there people present who
18 wish to testify either for or against? Yes.

19 MR. MURRAY: Mr. Chairman, Members, Mark Murray
20 with Californians Against Waste.

21 I apologize for just lying to you, Senator. I'm
22 not here to either support or oppose Mr. Goldzband.

23 Californians Against Waste is the sponsor of
24 California's bottling can recycling law. We've been involved in
25 the implementation of it over the course of the past decade.

26 The bottle bill program is the largest
27 programmatic responsibility that the Department of Conservation
28 has. Over the past six years, the program has achieved a 75

1 percent recycling rate of beverage containers. Analyses by both
2 the Department of Conservation and for the U.S. Environmental
3 Protection Agency have called the program the most cost
4 effective program of its kind in the country. Additional
5 studies have said that it's reduced litter, it's helped -- it's
6 had a positive, net positive impact on employment and the
7 economy. No other program, no other material, no other private
8 sector initiative has achieved the same level of recycling
9 success as this program.

10 So, it's really, despite the success, somewhat
11 mystifying to us that over the course of the last six months,
12 the Department of Conservation has pursued an agenda that
13 appears to be intent on dismantling this program and undermining
14 its success.

15 Just to maybe summarize a few of those items, in
16 April, the Department of Conservation, a letter with Mr.
17 Goldzband's name it, although it was signed by a deputy
18 director, used false and misleading claims to justify opposing
19 legislation to add new beverage containers to the program. And
20 that was legislation to implement previous Department of
21 Conservation recommendations, Deukmejian era Department of
22 Conservation recommendations.

23 Earlier this year, the Department issued but has
24 failed to comment on a report that contains radical
25 recommendations to repeal much of the program, including the
26 manufacturers' responsibility provisions that Mr. Goldzband
27 spoke of. Also calls for eliminating funds for curbside
28 recycling programs, as well as for local conservation corps.

1 CHAIRMAN LOCKYER: Where did that come from?

2 MR. MURRAY: This was a study that was paid for
3 the by the Department of Conservation. The New Point Group
4 Study that the Department -- it's kind of out there, but there
5 hasn't really been -- and maybe it's to Mr. Goldzband's credit,
6 there hasn't been much comment from the Department of
7 Conservation on the recommendations in that study.

8 The Department is also sponsoring legislation,
9 SB 1157, which would repeal the entire program, effective
10 January 1, 1999.

11 In general, both today and in previous statements
12 and in written statements from the Department of Conservation
13 over last several months, the Department has made general
14 criticisms of the program, calling for comprehensive reform and
15 overhaul of the existing program.

16 Now, we can't figure out why this is necessary.
17 And we'd be last persons to suggests, last organization to
18 suggest that this program is perfect, but we're having a
19 difficult time figuring out where the Department of Conservation
20 is coming from, where Mr. Goldzband is coming from.

21 Had several conversations with Mr. Goldzband,
22 raising our concerns with him. Most of them very pleasant
23 conversations. He's a very charming individual. And all of
24 them have been positive conservations. He's very charming.

25 About a month ago, we had a conversation. I
26 again summarized our concerns. At that time, Mr. Goldzband said
27 that he thought they were appropriate issues to be raising, that
28 he'd get back to me. I've summarized those concerns again in a

1 letter to him.

2 The only response we've received is a copy of Mr.
3 Goldzband's letter to Senator Sher, which responds to some of
4 those issues. And frankly, the response is inadequate, and it
5 still leaves -- the primary question is, does Mr. Goldzband
6 support the positions that the Department of Conservation has
7 staked out over the course of the last six months? If he does
8 support those positions, why? What's the basis for calling for
9 the overhaul of the program, and the repeal, frankly, as
10 proposed in the Department's legislation?

11 CHAIRMAN LOCKYER: Who's carrying it?

12 MR. MURRAY: Senator Maddy's carrying that
13 legislation. The legislation did not move out of its first
14 policy committee.

15 I can speak to some of the specifics, get into
16 the details of the specifics. Our concerns are not process
17 oriented. They really are substantive.

18 The Department has taken some very I would
19 describe radical positions that call for really making changes,
20 significant changes, to a program that has been doing pretty
21 darn good over the past decade. I'm hard pressed to think of,
22 with all due respect to the Legislature, another program that
23 has had the level of success in such a short period of time as
24 the state's bottle and can recycling law.

25 And if the new Director would like to make an
26 overhaul of that program, we'd like to know why, and we'd like
27 to know where he's going before he's confirmed for that
28 position.

1 If you have any questions for me, I'd be happy to
2 attempt to answer them.

3 CHAIRMAN LOCKYER: Is there a reason any time
4 someone says, "with all due respect," it's followed by a
5 disrespectful comment.

6 [Laughter.]

7 CHAIRMAN LOCKYER: Stay where you are.

8 Let me ask, you heard the various concerns,
9 support of the Maddy bill, or more significantly, its content
10 which would repeal the program or eliminating curbside pickups,
11 or whatever.

12 What are your current thoughts about those
13 matters?

14 MR. GOLDZBAND: Let me say that the one thing
15 that the Department of Conservation really wants to do is build
16 on the successes of the current program.

17 But there really has not been a top-to-bottom
18 review of the program and how it's working, really from A to Z,
19 in the ten years that it actually has occurred, where it's
20 actually been in existence.

21 There's no doubt that in some respects it's been
22 a tremendous success. We actually had, until this year, an 81
23 percent recycle rate overall of beverage containers, although
24 that did drop this past year. Nobody knows why. It did so
25 nationally, actually.

26 So, what the Department of Conservation is trying
27 to say is, okay, let's take a look at the program from not only
28 a macro perspective, but also a micro perspective. What can we

1 do to make this program work better? Are there alternative ways
2 of thinking inside and outside the box about how to get beverage
3 containers out of landfills and off the streets better than we
4 are now?

5 And so, that was the purpose of my predecessor's
6 decision to have a study. And that study came out in the --
7 actually in mid-winter this year, a couple months after I was
8 there.

9 We've had at least one stakeholder workshop to
10 talk about what the study wants to do. But all it is is a
11 study, and it's a study by a group of people. It's not the
12 Department's. It's not the Department's position.

13 Let me say two things about the study which I
14 think are really, I think, positive.

15 Number one, it has incited a great deal of
16 discussion about the program. To me, that's good, because the
17 program needs to be reauthorized by the end of this year --
18 excuse me, by the end of next year -- and the stakeholders are
19 talking about what should happen, and how we can try to make the
20 program better, and what successes we can build upon the current
21 program, and what needs to be changed or what should be changed.

22 The second thing is that what we try to do, and
23 the way, I must admit, I tried to work this, and certainly I'll
24 take -- you know, just because my chief deputy signed the
25 letter, it's the Department's letter, and I'm more than happy to
26 do that. I'll take that. I was out of the state at the time.

27 What we're trying to do literally is put
28 everything on the table. Let's have a good, honest, fair, great

1 discussion about what's going on out there and what we can learn
2 from other places to try to make this work even better. And
3 what good ideas are out on the table.

4 The New Points Study is one idea. My bet is that
5 Mark has seven or eight of his own that are probably pretty darn
6 good. My bet is that manufacturers and recyclers and so on have
7 their own ideas.

8 So, what we're trying to do is essentially get
9 everybody around the table, have an iterative process and work
10 through these issues.

11 I guess I'd finish the answer to the question by
12 saying that the Green Bay Packers won the NFL Superbowl earlier
13 this year, but then they probably did a top-to-bottom review of
14 the best team in football and decided how they could get better
15 by looking at their strengths, their weaknesses, the
16 opportunities, the threats that they had.

17 We're doing the same thing. And the Packers have
18 changed their team a little bit this year, and we're wondering
19 whether we should change ours.

20 CHAIRMAN LOCKYER: In what way?

21 MR. GOLDZBAND: Ishmael, I think, they traded, as
22 well as -- I'm sorry.

23 What we're trying to figure out essentially is
24 how we can take -- there are a whole lot of issues. For
25 example, we at this point have \$68 million in the recycling --
26 in the beverage container fund. And the bill which reauthorized
27 the program two years ago, SB 1178, one of the things that it
28 was trying to do is literally try to reduce that fund.

1 Well, the fund's actually grown a little bit
2 larger, and even if we hadn't had recycling rates go down, we'd
3 still have something like \$45 million in this fund.

4 So, one of my desires is to try, if the money
5 comes in from the unredeemed containers, let's get it out and
6 see what we can do with it. And one of the things that we're
7 trying to figure out with our nonprofit grant program is how we
8 can create jobs. Let's work with the Trade and Commerce Agency
9 and their economic development packages to try to figure out who
10 out there can qualify for grants which can actually leverage the
11 program and create jobs in the state.

12 We're trying -- but to have a \$68 million fund,
13 which is just sort of sitting there, doesn't really help the
14 consumers.

15 One of the other issues, one of the other ways
16 we're trying to figure this out is, we have a program which --
17 whose budget is going down at this point because of the SB 1178.
18 About a quarter or so of its budget will be reduced within the
19 next year or so over that three-year span. But we're still
20 spending about \$20 million a year running this program. And to
21 me, that seems like a lot of money.

22 It seems to me that what we ought to try to
23 figure out is, how we can make the program ensure that we have a
24 high number of containers that come and have a great recycling
25 rate, but spend less money doing it. To me, that would be a
26 worthwhile goal.

27 We also, of course, it almost goes without
28 saying, we want to see if we can use market forces to do so,

1 because the market -- we hope that we can capture some of those
2 market forces and see if we can reduce those funds. So, that's
3 what we mean by making the program more efficient.

4 I don't have the answer. I don't know exactly
5 what the final result will be. But I know that if we get the
6 stakeholders around the table, that we should be able to figure
7 out something. And the only way you can do that is with
8 consensus, because we wouldn't want to go, you know, with the
9 Legislature unless we had a consensus, getting something to the
10 Governor.

11 CHAIRMAN LOCKYER: Did you hear anything that you
12 would want to ask specifically what was meant, Mark?

13 Don't make a statement. Did you hear anything
14 that you'd specifically want to ask, what do you mean by?

15 MR. MURRAY: I guess the thing I'd want to ask
16 is, have you taken a good look at the history of the program and
17 the history of the legislation, because frankly, you've made
18 some comments that suggest that you haven't.

19 The program has been overhauled on a couple of
20 occasions. The program has been thoroughly reviewed on several
21 occasions. Department of Conservation studies, hundreds of
22 thousands of dollars in Department of Conservation studies over
23 the last decade. And recommendations and changes to the program
24 have been made. That's always in order, and we never -- and we
25 don't question that.

26 What we're questioning is the Department of
27 Conservation, for the first time, exercising some extremely
28 strong positions about the need for changing a program that has

1 been working for last decade.

2 So, we've proposed changes to the program this
3 year. The program does not sunset next year. There is no need
4 for legislation in this program.

5 There are those that would like to change the
6 program, and there are probably some positive things that could
7 be done to modify this program.

8 But we've got a Department of Conservation that's
9 coming forward and saying, the program needs to be overhauled.
10 The program needs to be reformed.

11 And I am still struggling to try and find what is
12 the basis for that need.

13 If Mr. Goldzband would like facilitators and have
14 an open process, I think that's great. Our concern is that the
15 Department of Conservation is coming into this with an agenda,
16 and that the root of that agenda is to overhaul. I perceive
17 that, based on the legislation that the Department is
18 sponsoring, to be a euphemism for repeal of provisions of this
19 program. That's my concern.

20 CHAIRMAN LOCKYER: When is the sunset?

21 MR. MURRAY: The program does not sunset. This
22 program never sunsets. It will be with us forever.

23 MR. GOLDZBAND: It reverts back.

24 MR. MURRAY: Yes, the program will go back to its
25 original legislative intent at the end of next year.

26 As you will recall, Senator O'Connell carried
27 legislation. Senator O'Connell, when he carried that
28 legislation that utilized part of this reserve that

1 Mr. Goldzband spoke of, wanted that legislation to be a longer
2 fix. Proposed a five-year fix.

3 Projections from the Department of Conservation
4 suggested that that couldn't happen, and in fact it would only
5 -- we could only fix it for three years. The Department of
6 Conservation's projections were wrong. I'm sure that Senator
7 O'Connell would be pleased to have extended his legislation for
8 a longer period of time.

9 But the bottom line is, the program doesn't need
10 any legislation at all next year.

11 CHAIRMAN LOCKYER: Anything there that would help
12 us be better informed?

13 MR. GOLDZBAND: I'd respond this way.

14 First of all, I think one of the fun things about
15 being a department director is that one can exercise a little
16 bit of leadership and management in trying move a department,
17 trying to work with people in the department.

18 I that think one of the things that we want from
19 the Department of Conservation is to be a leader in recycling,
20 and to be a department which consumers in the State of
21 California can be proud of.

22 So, there is a reason why we're not only
23 facilitating, but we will most likely be -- we will be working
24 with people to try to get a solution to this issue.

25 The sunset, which actually occurs, is really -- I
26 guess it's not a sunset in the technical sense. It will be with
27 us, but it ends at the end of next year, and it goes back to the
28 previous bill.

1 We've had about 40 or so changes to the program
2 in the past ten years, and every three years or so, we seem to
3 all go around. I must admit, I wasn't here the last time. I
4 wasn't here the time before that either. But everybody seems to
5 try to get around the table and try to sort of do their own
6 little fix, you know, because each person has, or each
7 stakeholder has his or her interest.

8 And so, what we're trying to do is say, let's
9 step back. Let's leave our six shooters at the door. Let's go
10 in, and let's try to figure out how we can provide more
11 stability to the program so that every three years it doesn't
12 change like this. And we think we can do that by making it a
13 little more transparent in terms of using market forces.

14 I think the way I'd probably end in answering
15 Mark is, that as far as I know, there is no -- I mean, I
16 certainly don't have a hidden agenda which says repeal the
17 program.

18 One of the things that we did in the Maddy bill
19 is to say, let's just, you know, let's get everybody to the
20 table. So, we're not going to have a preconceived notion about
21 what's going to happen when everybody goes to the table, and
22 what result we would work with the Legislature to get. And we
23 don't want a preconceived notion. We're not necessarily sure
24 the stakeholders have preconceived notions, so let's start with
25 a clean slate.

26 That was the purpose of the legislation.

27 CHAIRMAN LOCKYER: How does the notion of greater
28 alliance on market forces affect things like the manufacturers'

1 responsibility or recycling fees for glass? Is there a
2 relationship?

3 MR. GOLDZBAND: There can be, I think, if you
4 want there to be a relationship.

5 I think the way I look at manufacturers'
6 responsibility, having come from the gas and electric utility,
7 we had a little -- I was going back to my former life. We
8 basically had targets set for us by the regulator, the Public
9 Utilities Commission, who said, you meet these targets or else,
10 but we'll let you figure out how to meet those targets.

11 That allowed the firm I worked with to be able to
12 be flexible enough to meet all those targets for customer
13 reliability, and safety, and so on and so forth, but also ensure
14 that we were able to get our internal processes down to the
15 point where we were the most efficient.

16 So, that's how I tend to look at -- I mean,
17 that's one side of manufacturers' responsibility.

18 The other is essentially is a regulatory body
19 which truly micro manages everything that a participating entity
20 would do.

21 I don't think that anybody is saying here that
22 manufacturers don't have a responsibility. I think it was
23 pretty clear ten years ago, when the original bill was signed,
24 that they do.

25 So, I think what we're trying to figure out is,
26 how do you make that as efficient as possible.

27 Does that answer?

28 CHAIRMAN LOCKYER: Yes. It's sometimes hard, if

1 you're not involved in a policy area for a long time, to know
2 what is the sort of inquiry that reveals the philosophy and
3 future of the program. You kind of bang around and hope that
4 you hit the duck.

5 Mark, thank you, and we'll take some more
6 testimony.

7 MR. MURRAY: Thank you.

8 MS. HUMISTON: Thank you for the opportunity to
9 testify. I actually am going to change subjects. If there's
10 anyone else to talk about recycling, they can take their turn.

11 My name is Glenda Humiston. I'm currently
12 serving as President of the California Association of Resource
13 Conservation Districts. Over a hundred districts throughout
14 California that work closely in a conservation partnership with
15 USDA, U.S. Department of Agriculture, and the Department of
16 Conservation.

17 We did submit a letter. I'd like to emphasize
18 three points in particular, though, where we've been very
19 pleased. And I would say myself in particular. I was elected
20 President at about the same time that Mr. Goldzband came on to
21 the Department.

22 Three areas in particular have been a real
23 pleasure to work with Mr. Goldzband. He has set a real
24 leadership tone at the Department for himself in facilitating
25 meetings and throughout his staff, working with us, looking to
26 install and expand a new direction from the federal government
27 that they're calling locally led conservation, which actually is
28 something I think a lot of us in the field have been doing for

1 years, but it's nice to get a little federal support for it.

2 This idea in particular Larry has picked up, and
3 went to D.C. on a few trips, and actually worked closely to help
4 expand, to allow local citizenry, both land owners, residents,
5 special interest groups, et cetera, work together and find
6 solutions to their resource conservation and management programs
7 and efforts.

8 Larry has also worked with us closely on USDA
9 budget items. The State of California has for years received
10 less than what we would call a fair share of USDA dollars to do
11 resource conservation in the field. I think the fact that we
12 have less budget than the State of Mississippi, given the
13 difference in size and resource issues, speaks to that problem.

14 And yet, Mr. Goldzband was able this year to
15 raise that issue to a very high profile back in Washington,
16 D.C., and at the '98 Appropriations Committee hearings, did get
17 California's needs highly visible and included into the budget
18 appropriation process. And we anticipate a large increase in
19 those budget items next year for California.

20 At the state level, the third item I'd like to
21 focus on is our California conservation partnership.
22 Mr. Goldzband has been very instrumental, as has all his staff
23 that he's created a leadership ethic therefore, in reaching out
24 to other state agencies, federal agencies, local agencies and
25 interest groups, to try to find solutions that leverage the
26 finite dollars we all have available for resource management
27 programs, and to find efficiencies and opportunities for us to
28 work together as partners.

1 It has been a real pleasure working with Larry
2 and his staff at the Department. And I know I speak on behalf
3 of many other directors throughout the state who urged me to
4 show up today and speak on his behalf.

5 With that, I'd like to answer any questions if
6 you have some.

7 CHAIRMAN LOCKYER: Nope. Thank you.

8 MS. HUMISTON: Thank you.

9 MR. VINK: Thank you, Mr. Chairman.

10 My name is Erik Vink. I'm with the American
11 Farmland Trust, which is a national nonprofit farmland
12 conservation organization here to speak in support of this
13 appointment.

14 We're interested in the Department's farmland
15 conservation activities, which are numerous, and is one universe
16 that this Department deals in.

17 I'd like to say that Mr. Goldzband has been
18 terrifically approachable, and has really shown an ability to
19 work with a wide variety of competing interests on these
20 programs. We're just one of them, but we've been very impressed
21 with his open-door policy and his willingness to really put his
22 neck out on a few thing. I'd like to just let you know about
23 two of those very briefly.

24 One is the Agricultural Land Stewardship Program,
25 which Senator Costa's legislation created and was something that
26 our organization, and Planning and Conservation League, and
27 other conservation groups were very supportive of. The
28 Department's just made its first round of grants. Mr. Goldzband

1 was very helpful in facilitating that process for local
2 nonprofit organizations that are the groups making the
3 applications for these monies, and has been supportive of
4 keeping and increasing the funding for this program, which we're
5 proud to say we have a little bit more funding to work with in
6 coming fiscal year.

7 And secondly, his advocacy at the federal level
8 for the estate tax provisions in the federal Balanced Budget
9 Agreement which ultimately were included in that, and which are
10 of great assistance to family farmers all throughout the state
11 to help them hold on to their land.

12 So, we're very supportive. He's been great to
13 work with. We look forward to working with him more and urge
14 your support.

15 MS. DELMATIER: Mr. Chairman, Members of the
16 Committee, my name is Denise Delmatier with the Gualco Group on
17 behalf of Norcal Waste Systems.

18 Our interest in supporting the confirmation of
19 Mr. Goldzband stems from our interaction with the Department on
20 the bottle bill and the implementation of that very successful
21 program.

22 We'd like to echo Mr. Murray's comment that we,
23 too, have found Mr. Goldzband to be very charming. The
24 principals of Norcal have found Mr. Goldzband to be charming in
25 his implementation of the program.

26 We have had found Mr. Goldzband to be a real --

27 CHAIRMAN LOCKYER: You get the Ann Landers Award.

28 [Laughter.]

1 MS. DELMATIER: We have found Mr. Goldzband to be
2 a real problem solver in the implementation of the program.

3 One of the things that distinguishes Norcal from
4 other waste recycling companies is the fact that they have
5 implemented both convenient zone programs as well as curbside
6 programs. That's very different than a lot of the waste
7 companies who are primarily curbside operators. So, we operate
8 in both the Integrated Waste Management Act, AB 939, as well as
9 the Bottle Bill, AB 2020.

10 One of the things that we've talked about with
11 Mr. Goldzband and the Department over the years is that these --
12 while we have two very separate programs, there is room, since
13 the implementation of AB 939, to have the elimination of the
14 duplication and overlap between the two programs, but also to
15 provide for more coordination, and to provide that these
16 programs are complementary rather than separate and distinct.
17 We've worked closely with Californians Against Waste in trying
18 to find those areas where the 2020 program can be complementary
19 to the AB 939 program.

20 One of the things that Mr. Murray mentioned is
21 the proposal in that New Point Study. One of those proposals
22 that we find as well to be very troubling is the proposal to
23 eliminate the curbside funding. And that would be, obviously,
24 very dramatic, and a negative impact on both the existing 2020
25 program for the provision of curbside collection of beverage
26 containers, as well as the ability of cities and counties to
27 meet the AB 939, 50 percent diversion mandate that we are
28 closely approaching, that deadline.

1 One of the programs that we have found in
2 addressing both the Bottle Bill and the AB 939 program that
3 Mr. Goldzband's Department has been instrumental in implementing
4 is the issue of scavanging. And it has been this Department
5 that has addressed this issue head on by providing the funding
6 and providing the wherewithal for local agencies to provide cops
7 in the streets to address the issue of scavanging.

8 Here in Sacramento locally, for example,
9 Sacramento County has just engaged in embarking on a program
10 that utilizes -- and Mr. Goldzband can probably give you a more
11 technical description of that -- but utilizes basically an
12 invisible paint that curbside residents will spray on their
13 containers at the curb, and then those containers can be tracked
14 as far as when they're redeemed for scavanging problems. And
15 that way, the Department can then go in and assess whether or
16 not a processer is operating in violation of the law and in fact
17 enforce the law.

18 But it has been the Department. Now, this is the
19 -- curbside programs are generall considered --

20 CHAIRMAN LOCKYER: How does that help identify
21 processer problems? I don't get it.

22 MS. DELMATIER: Processers are, under the law,
23 prohibited from accepting scavanged material.

24 CHAIRMAN LOCKYER: And this traces them.

25 They have these other big garbage bins now that
26 sort of like eat your arm or something if you put it in there.
27 There's a lot of one-armed poor people now. That's what I've
28 seen outside my apartment building. They aren't the kind you

1 can crawl into and stuff. You have to have a magnet or
2 something to get the stuff out.

3 MS. DELMATIER: The scavanging issue --

4 CHAIRMAN LOCKYER: I haven't seen this invisible
5 paint because it's invisible. I figured that one out.

6 . [Laughter.]

7 MS. DELMATIER: Again, it has been the Department
8 that has addressed this issue head on by providing and listening
9 to our concerns. We have gone repeatedly to the Department and
10 the Board in asking for resolution and assistance in addressing
11 this issue, but it's been the Department who has taken this head
12 on and provided the pilot program.

13 It's the Department that has provided the funding
14 for curbside programs in order to meet the Integrated Waste
15 Management Act's mandate. It hasn't been the Board that has
16 provided funding for curbside program. It has been the
17 Department.

18 The jury's still out as far as what the
19 Department's going to do as far as those key provisions that
20 Mr. Murray mentioned on the New Point Study. We found some of
21 those key recommendations to be just as troubling as
22 Californians Against Waste did. We have had subsequent
23 discussions with the Department, and we're very encouraged by
24 those discussions in that no rush to judgment has been made as
25 far as what those recommendations entail. But certainly --

26 CHAIRMAN LOCKYER: Which recommendation was the
27 most troubling?

28 MS. DELMATIER: Certainly the recommendation to

1 eliminate curbside funding would be quite troubling, both from,
2 again, the implementation, the successes of the 2020 program,
3 but also for purposes of complying with AB 939.

4 So, we again have found Mr. Goldzband to be a
5 problem solver. Immediately upon his appointment to his
6 current position, he came forward, and came over to San
7 Francisco, and toured the Norcal facilities. Wanted to see from
8 a hands-on perspective --

9 CHAIRMAN LOCKYER: Do they still have the big
10 huge pig, sow, swine; that huge guy? Is that there still at
11 Norcal, or is that gone?

12 MS. DELMATIER: I'm sorry?

13 CHAIRMAN LOCKYER: There used to be a huge, giant
14 -- this is years ago -- but huge, giant, several hundred pound
15 animal that was kept at the site.

16 MS. DELMATIER: Animal?

17 MR. GOLZBAND: One other way to recycle, I guess.

18 CHAIRMAN LOCKYER: That was sort of the idea.
19 The original garbage recycling program. Not there now,
20 huh?

21 MS. DELMATIER: I don't think so.

22 But in any event, we have been very encouraged by
23 his participation.

24 CHAIRMAN LOCKYER: There's a wonderful book -- I
25 don't remember the name of it -- about sunset scavengers, and
26 how it grew out of these sort of little neighborhood carts, and
27 they co-opted into a larger and larger, and eventually into a
28 large corporation. It's a fascinating story of how that was

1 created.

2 MS. DELMATIER: The horse-drawn carts at the turn
3 of the century. Those are the original recyclers that came over
4 from early Italy to San Francisco.

5 But yes, and San Franciscans have been recycling
6 at major rate ever since, and of course have carried that ethic
7 forward. So they are, San Francisco Norcal companies are strong
8 supporters of AB 2020 and the Integrated Waste Management Act.

9 CHAIRMAN LOCKYER: Questions?

10 SENATOR HUGHES: I have just one simple question
11 to ask you, Mr. Goldzband.

12 How do you feel about the fact that we've had the
13 Williamson Act for a long time, which has been good to try to
14 preserve our prime agricultural lands.

15 And it really upsets me as I come from the
16 airport, and I see what were beautiful agricultural lands and
17 crops growing, that are disappearing now because we have office
18 buildings and other things going up there.

19 Do you think that this is a problem that your
20 Department will be addressing any time in the future?

21 Because I am from an urban district, and we very
22 seldom see farmland. It's great coming to Northern California
23 and seeing that we're going to try to continue in some way to
24 support the largest industry in our state.

25 And what plans does your Department have in terms
26 of monitoring this kind of development? What are you doing at
27 this point?

28 MR. GOLDZBAND: Thank you, Senator.

1 I should note that I'm an urbanite, too. I
2 actually live in San Francisco. That's my permanent home, and I
3 come here for the week. So, I'm with you on that.

4 We are -- there are couple of things I'd like to
5 talk to you about for just a couple seconds.

6 The first is that the Department a little while
7 ago formed the Williamson Act Advisory Committee, which is a
8 group of stakeholders from all over California who are going to
9 be -- who are finalizing their report now to give us
10 recommendations about how to change the Williamson Act, or at
11 least their recommendations to do so.

12 We also, of course, have the Agricultural Lands
13 Stewardship Program, which Senator Costa authored, and which
14 Erik mentioned.

15 But those things are sort of two very different
16 animals the Williamson Act is a near-term solution. You have
17 essentially a tax break, but you can get out of it after ten
18 years. Actually, you can get out of it any time if you want to
19 pay a cancellation fee.

20 The Agricultural Land Stewardship Program is a
21 long-term program which has a permanent conservation easement.
22 So, they're very dissimilar.

23 What we're looking at doing is working with our
24 stakeholders, everybody from the building industry to the
25 American Farmlands Trust, to try to figure out if there's not
26 another way of doing it. And we don't want to simply split the
27 baby and say 15 years or 20 years.

28 What we want to do is try to provide a cash flow

1 to an agriculturist, a farmer, a rancher, who may be right next,
2 say, to a growing city, but wants to remain in agriculture. But
3 he or she doesn't want to necessarily put a conservation
4 easement on it because agricultural economics are very cyclical.
5 And he or she may not want to burden the family with an easement
6 if prices go way down. I mean, that's a very risky economic
7 thing to do.

8 So, what we're trying to figure out is how we can
9 get the stakeholders together to agree on a longer term program
10 which does allow a cash flow to come to the farmer or the heirs
11 to the farmer to ensure that they can get through rough
12 agricultural times economically, but still allow for a local
13 land use authority to be able to house the residents who are
14 coming in, or whatever, while also still keeping a whole lot of
15 that land, a huge majority of that land on the farm, as it were.

16 That's not an easy thing to do. But there are a
17 lot of very interesting ways that you can approach this. For
18 example, through a securitization process of funding, through
19 various types of other financial instruments which have come
20 along in the last ten years, which can allow for an awful lot of
21 very creative ways to have a cash flow coming to the farmer, or
22 his or her heirs, while at the same time, preserving that ag.
23 while letting, say, a portion of that ranch or that farm, in a
24 nonleapfrog way, be developed in order to house residents.

25 So, there are all sorts of different, creative
26 ways I think we can get to that. As a matter of fact, Erik and
27 I are meeting at the end of this week with a number of other
28 stakeholders to try to look at different creative ways to do

1 just that kind of thing. I assume they'll have even more ideas.

2 So, we are trying to get there.

3 SENATOR HUGHES: As long as you're going to
4 preserve our logging industry.

5 MR. GOLDZBAND: You have to.

6 SENATOR HUGHES: Fine, okay.

7 CHAIRMAN LOCKYER: The program that seems to
8 perhaps be the neglected orphan in the Department is the Surface
9 Mining and Reclamation. I know you mentioned it at the start of
10 your testimony, but could you comment a little more on your
11 expectations for improvement?

12 MR. GOLDZBAND: I'd be happy to, Mr. Chairman.

13 The Surface Mining and Reclamation Act was a big
14 topic of discussion, if I remember correctly, when my
15 predecessor was in her confirmation. And what former Director
16 Miller did was start an enforcement policy which basically
17 ensured the Department was going to take a look at the quarter
18 or so, depending upon how you look at it, mines who were not in
19 compliance with SMARA.

20 I have furthered that by doing a few
21 things. First of all, in addition to an enforcement policy you
22 need an enforcement strategy. How are you going to actually
23 enforce the policy.

24 So, I announced at an April board meeting of the
25 State Mining and Geology Board essentially the three ways in
26 which we will implement that policy.

27 The first us that we have to educate the mining
28 community and the lead agencies about what SMARA is and how it

1 needs to be enforced on the local level. Because if you
2 remember, SMARA's enforced on the local level.

3 The second is to create really a more systematic
4 communication between what's going on at the local level and
5 what's going on not only up here in Sacramento, but in our
6 different field offices. Because unless we really know what's
7 going on at the local level, it's very difficult for us to have
8 a uniform enforcement strategy and policy, which we need on the
9 basis of fairness.

10 The third thing is, we're going to penalize
11 operators, if necessary, if they break good faith, and if they
12 do not follow the law.

13 Since I took my oath of office on the 2nd of
14 January, I have signed something like 102 letters to
15 recalcitrant mine operators, which out of the 245 which were
16 originally identified by former Director Miller, about 102 we
17 needed to really work with to get them up to speed, about half
18 of them have responded. And about half of those, we have
19 either -- we are in the process of getting financial assurances
20 and reclamation plans.

21 The other half are, candidly, going into the
22 enforcement pile, and are being worked through by our staff and
23 by the Attorney General to come up with how we're actually going
24 to enforce a penalty, or actually administer a penalty, I should
25 say.

26 The way that we tend to work this is by working
27 with the locals, to try to get them to enforce, because that's
28 what the Act does. And we have had some great success in a

1 number of counties, and we haven't had great success in other
2 counties. So, it is also sort of a spotty thing on the
3 state level.

4 But at this point, I must admit, I have fined,
5 the Department has fined operators anywhere from a few thousand
6 dollars up to \$20,000 and \$25,000 who are not in compliance of
7 SMARA. And we shall continue to do so.

8 But I think the best compliance policy is one in
9 which you don't have to fine that many people, but you get them
10 working with the locals in a regular, systematic way, which
11 gets them the reclamation plan and the financial assurance.

12 Approximately 71-72 percent of mines are in
13 compliance with financial assurances, and about 84-1/2
14 percent -- I'm looking at my chart here -- for reclamation
15 plans.

16 But that means we have a couple 200-300 mines who
17 simply aren't in compliance, and those are the ones we're
18 concentrating on.

19 CHAIRMAN LOCKYER: Did I miss asking if anyone
20 else wished to testify?

21 Are there questions from Members of the
22 Committee?

23 The problem we have is, I think we probably
24 informed ourselves sufficiently, but Senator Sher had asked that
25 we postpone going to a vote for a week because he still wanted
26 to have an opportunity to chat with you again.

27 MR. GOLDZBAND: We spoke this morning as well.

28 CHAIRMAN LOCKYER: I know, but he was unhappy

1 with the conversation and asked that we -- he was trying to get
2 here, but he's had to be on the Assembly Floor, working a bill
3 that's been on call there this afternoon.

4 So, let me just ask you to conclude, if there's
5 anything further you would wish to add, and we'll schedule this
6 for a vote only at our next meeting.

7 MR. GOLDZBAND: Happy to, sir, and we'll be in
8 touch with Senator Sher's office.

9 CHAIRMAN LOCKYER: Please do.

10 MR. GOLDZBAND: Happy to do so.

11 CHAIRMAN LOCKYER: Thank you, sir.

12 MR. GOLDZBAND: Thank you.

13 CHAIRMAN LOCKYER: Maybe I can refer back
14 briefly, since we won't take testimony on this item, to item
15 number three, the appointment of Tirso del Junco as a Member of
16 the Regents of the University of California.

17 We've had an extensive hearing, and so the matter
18 is scheduled for a vote only.

19 If there are Members that wish to comment prior
20 to putting it to a vote, I entertain any comments that one may
21 wish may wish to make.

22 SENATOR LEWIS: Can we postpone?

23 CHAIRMAN LOCKYER: Let him show up. I don't like
24 sitting through all this, either.

25 The only point that I would make is that Dr. del
26 Junco has served for twelve years as a Regent. I think he's
27 been there long enough. That during his tenure, problems at the
28 University have not abated, in fact, maybe the opposite is

1 true. That is, student fee increases, more internal
2 politicization, more controversy, more divisive board meetings.

3 It seems to be the unanimous sentiment of the
4 Democratic caucus that he not be confirmed.

5 With that comment, I would make the motion that
6 we refer the matter to the Senate Floor with the recommendation
7 that we not confirm.

8 That is, voting aye is a no. I'm sorry this is
9 confusing, but it's the way you have to do it to get the rule
10 affected.

11 Other comments from Members?

12 SENATOR HUGHES: So move.

13 CHAIRMAN LOCKYER: Motion not to confirm, meaning
14 yes is to not confirm, and no is to confirm. We'll leave the
15 roll open so Senator Brulte can record.

16 Call the roll.

17 SECRETARY WEBB: Senator Ayala.

18 SENATOR AYALA: Aye.

19 SECRETARY WEBB: Ayala Aye. Senator Brulte.
20 Senator Hughes.

21 SENATOR HUGHES: Aye.

22 SECRETARY WEBB: Hughes Aye. Senator Lewis.

23 SENATOR LEWIS: No.

24 SECRETARY WEBB: Lewis No. Senator Lockyer.

25 CHAIRMAN LOCKYER: Aye.

26 SECRETARY WEBB: Lockyer Aye.

27 CHAIRMAN LOCKYER: Leave the matter open.

28 Dr. Nebeker, have I said it correctly? Help me

1 out with the pronunciation.

2 DR. NEBEKER: Mr. Chairman, it's Nebeker.

3 CHAIRMAN LOCKYER: Thank you.

4 Did you want to start with any opening comment at
5 all?

6 DR. NEBEKER: Sure. I'd just like to say good
7 afternoon.

8 CHAIRMAN LOCKYER: If you'll let me jump back.
9 The press have all left. I had meant to say it while they were
10 still here.

11 We have 19 appointees on our calendar today.
12 Every one is a registered Republican. My guess is, probably 18
13 of the 19 will get confirmed.

14 And so, for those that think somehow it's a
15 partisan act to turn down one of 19 when it's preceded by the
16 partisan act of 19 Republicans are submitted, never an
17 Independent, or rarely an Independent, rarely a Democrat, I just
18 want to make the point that it's not a partisan matter.

19 Please, go ahead, sir. Sorry.

20 DR. NEBEKER: I'd like to thank you, Chairman
21 Lockyer and Members of the Senate Rules Committee, for allowing
22 me to appear before you today.

23 I'm particularly proud of our Lahanton Regional
24 Board, our staff, and my small role in it.

25 CHAIRMAN LOCKYER: What area does that cover?

26 DR. NEBEKER: That covers -- I'm glad you asked,
27 because that was my next comment.

28 That covers essentially part of San Bernardino

1 County, all the way up to the Oregon border. It's 570 miles --

2 CHAIRMAN LOCKYER: Is it a watershed?

3 DR. NEBEKER: Yes, that's correct, right.

4 CHAIRMAN LOCKYER: So, on the eastern side?

5 DR. NEBEKER: Eastern side of the Sierra

6 Nevadas. It's a fairly arid area, but --

7 CHAIRMAN LOCKYER: Is it an Indian tribe that got
8 its name? Where did it come from?

9 DR. NEBEKER: I think -- I don't recall, but I
10 think it was a tribe that was -- it was either a tribe or a
11 leader of the tribe that was in that area and sort of went over
12 into the Nevada area, I think.

13 SENATOR AYALA: Didn't you tell me this morning
14 that it was from San Bernardino to Seattle.

15 [Laughter.]

16 DR. NEBEKER: I'd like to infer it was that large
17 to get more credit, but I don't think that's appropriate. It
18 just goes to the Oregon border.

19 It does have 3,000 miles of streams, and 700
20 lakes. And probably the biggest claim of fame for our area is
21 that Los Angeles gets a lot of its water there, and it's used as
22 a recreational area for an awful lot of people in the State of
23 California.

24 My formal education, work experience,
25 publications and dealing with professional societies have given
26 me qualifications for the Board. I have a Bachelor's and
27 Master's and Ph.D. in chemical engineering, and this gives me
28 some idea as to how chemicals are transported through air, soil,

1 and water, how fast they react, and that sort of thing.

2 SENATOR HUGHES: This explains why we can't drink
3 our water?

4 DR. NEBEKER: Well, it depends on whether you
5 talk to the people in L.A. or whether you talk to the people in
6 Northern California.

7 The water that comes down from -- to Los Angeles
8 in the California Water Project, it has asbestos and a lot of
9 other things in it, and so it must be treated just simply
10 because it has to go through that transport process.

11 And I know if you're from L.A., some parts of
12 L.A. You really object to the taste and odor of the water
13 sometimes.

14 SENATOR HUGHES: All the time. Thank you.

15 DR. NEBEKER: As a practicing engineer, I'm
16 registered as a professional engineer in this state in the
17 branches of chemical and agricultural engineering, which means I
18 understand the ethical standards that are expected of our
19 profession.

20 I reviewed a lot of proposals and other documents
21 from the National Science Foundation, U.S. Department of Energy,
22 National Institute of Health, and it gives me some idea as to
23 what the peer review process is, so we can separate junk science
24 from good science.

25 CHAIRMAN LOCKYER: Pardon me, but how do you have
26 a ranch in Santa Monica?

27 DR. NEBEKER: That's a good question. I have --
28 you know, we're not full-time employees of the state, and so I

1 have to earn a living. I have two small companies: one a
2 research and development company, and another a ranch. The
3 ranch is located physically in Lancaster, California. It's 680
4 acres, but we share the office facilities in both places.

5 As I said, I operate these two small companies,
6 and I get some personal satisfaction knowing that, in addition
7 to earning money, both companies provide some benefit for
8 society. In the research and development company, I get ideas,
9 and I write proposals and get funding from the federal
10 government, and then serve as a principal investigator to do the
11 work.

12 This is the activity that gives me the
13 qualifications to be in the appointment category of industrial
14 water use, because many of these projects we've done use water
15 to solve environmental problems. As an example, we developed an
16 oil skimmer for high sea oil spills for the U.S. Coast Guard.
17 We've developed a water pumping technique using wind energy for
18 the U.S. Department of Energy. And our most recent work for the
19 Department of Energy uses a pulsating water jet to demolish old
20 nuclear reactors that are very difficult to tear down because
21 they're so big and heavily reinforced.

22 In fact, we pass a water stream through a nozzle
23 that's no bigger than my thin lead pencil here at 30,000 psi.
24 It's going roughly the speed of sound and air, and it tears this
25 thing, plus it cuts the steel pretty well.

26 The ranch is 680 acres in area, as I mentioned,
27 and we grow alfalfa, hay for horses and the dairy industry, and
28 we also have a sheep and goat activity that we use to make

1 serums and blood products that are used for medical research
2 around the country.

3 We also use over a billion gallons of recycled
4 sewer water a year to irrigate our crops. Some of the local
5 people feel that we save them over one and three-quarters
6 million dollars a year because we don't use the precious
7 groundwater resources, and we can use the recycled water at a
8 pretty simple level of treatment so they don't have the
9 additional treatment costs.

10 We laser-level our fields to improve irrigation
11 of fish and seaweed. We deep plow and recycle our manure and
12 all that sort of stuff. And we published several articles on
13 our ranch operation, and we've given tours of it. In fact, in
14 1990, we got California Farm of the Year from the National Soil
15 and Water Conservation. In 1993, I was selected the Outstanding
16 Alfalfa Farmer.

17 Our Board has the reputation of being more
18 hands-on or personally involved than other regional boards this
19 this state. I don't think there's any of our members that are
20 just sort of bumps on a log. I encourage this. We treat
21 everyone the same, whether they're the small guy or a branch of
22 the federal government. We do our best to be available to the
23 public.

24 We have every meeting in a different location
25 because our region is so large, and we want to make ourselves
26 accessible.

27 CHAIRMAN LOCKYER: How often are those?

28 DR. NEBEKER: They're once a month, and on the

1 average, we have about ten meetings a year. Sometimes we might
2 have special meetings, but on the average, ten meetings a year.

3 CHAIRMAN LOCKYER: You're being reappointed, so
4 you've served for how many years?

5 DR. NEBEKER: I've served for a little over seven
6 years now. I came in in the middle of someone's term, and then
7 I had one full term. So, I've been reconfirmed by this
8 committee, I guess, or confirmed twice before.

9 In fact, I might say one thing I'm kind of proud
10 of that in the seven-plus years I've been on this Board, I've
11 never missed a meeting, in spite of the travel and all the
12 hassle.

13 We give a particularly high value to fairness on
14 our Board. In other words, people may not agree, but we want
15 them all to speak. And if they have technical concerns that
16 we're not familiar with, well, we go to the source to be sure
17 we've evaluated all the facts before we make a decision.

18 Each Board member on our Board, of course, brings
19 specific experience and expertise on various issues. And
20 although I don't have the longest tenure on the Board, I'm one
21 of the most experienced members.

22 I believe each Board member has an obligation to
23 share their experiences with the other Board members so this
24 knowledge can be shared around.

25 I believe as a Board member, it's important to
26 expend the energy required. I mention I've been to every
27 meeting through these years, and sometimes our meetings require
28 extensive travel. Sometimes, although I hate it, sometimes we

1 go to 1:00, 2:00 o'clock in the morning.

2 I make decisions based on good science and good
3 public policy, and I feel that I have the guts to make the tough
4 decisions and to stand by them in the light of public
5 controversy.

6 I believe our Board functions well, but I can see
7 room for improvement. I presently sit on a two-member committee
8 to evaluate the Board and staff functions and report back to the
9 Board our recommendations. Earlier, I was our Board's
10 representative on the State Water Resources Control Board's
11 External Review Committee, which reviewed the entire the State
12 Board and regional boards' operation and made recommendations.

13 The reason why I serve on the Board, and I would
14 like to be reappointed, is, I would like to see more emphasis on
15 the whole environmental process being more intelligent and based
16 on more technically sound conclusions. Often, I think, clean-up
17 takes too darn much time, and there's too much resources that
18 are being wasted on nonclean-up functions.

19 The regional boards also are going through a
20 transition --

21 CHAIRMAN LOCKYER: What are nonclean-up uses?

22 DR. NEBEKER: Well, like hassling over whose
23 responsibility it is, perhaps using brute force type methods of
24 clean up. And the thing that first comes to mind is pump and
25 treat. You know, that's kind of a brute force way of cleaning
26 up underground tanks and things like this.

27 Now, there are certain reasons and certain
28 circumstances that you need to do that, like to contain a plume

1 that's moving out, as an example.

2 But one interesting thing is, to my mind, anyway,
3 when I first got on the Board, the word bioremediation, you
4 know, which is sort of a natural tenutation of contaminants, you
5 could hardly even mention that word. And now it's really in the
6 forefront of some of our control and clean-up technology.

7 So, that's what I say, I think our society is
8 going to be better off if we can kind of go to things that are
9 technically oriented. And based on my experience on the
10 regional board, and my background in chemistry, water pollution,
11 and engineering, I believe I can provide positive assistance
12 through this challenging period.

13 CHAIRMAN LOCKYER: There may be people present
14 who wish to comment. Maybe I should ask for that first. Yes,
15 sir, please.

16 MR. TALBOT: Good afternoon. Lyle Talbot,
17 Lancaster.

18 CHAIRMAN LOCKYER: It says, "Unpaid Lobbyist."

19 MR. TALBOT: You might remember my pin and not my
20 face. I was here several months ago on Dr. Becker's
21 confirmation hearing.

22 I'd just like to say and thank the Senate. On
23 June the 30th, a good friend of ours and a good friend of the
24 environment, Stormy Williams died, and the Senate was adjourned
25 in her name that day. We certainly appreciate that, her friends
26 and her family.

27 So, I'm Lyle Talbot. I represent Desert Citizens
28 against Pollution. Ms. Williams' daughter was supposed to be

1 with me today, but she had a personal family matter, and she
2 represents California Communities against Toxics, which was
3 formed by her mother.

4 I am also the City of Lancaster's representative
5 to the Edwards Air Force Base Clean-up Committee, Restoration
6 Advisory Board it's called, so I don't know much science, but I
7 know about this pump and treat thing that Dr. Nebeker here has
8 been speaking about. Sometimes it's a good method; sometimes
9 not.

10 Well, we see -- I'm here against the confirmation
11 of Dr. Nebeker. He has a conflict of interest, we feel. He is
12 a sludge advocate. He's a user of sludge effluent, which he
13 mentioned, at quite a few gallons per year. And he had applied
14 for a sludge permit to spread sludge on his property at one
15 time, but I don't know where that approval item is.

16 He had the permit from the agency that he sits on
17 to pump the effluent to his property, and he got a federal grant
18 to construct. He has a big advantage.

19 We believe he is a gross polluter. Members of
20 our community have submitted photographic records of his pump or
21 his water reclamation project gone awry. It's run off to the
22 public road right-of-ways.

23 We feel his demeanor at public hearings is
24 questionable. It's sometimes bordering to intimidation, and he
25 likes to cross the witnesses.

26 Someone had the temerity to question his ability
27 to give a fair reading on a hearing we had in November in
28 Lancaster on sludge permits. He seemed a bit paranoid, but he

1 would not recuse himself when another member of the Board did, a
2 member from the City of Lancaster.

3 There was an attempt made last fall to influence
4 the press. He brought the Executive Director of Lahontan to a
5 special meeting in Palmdale with the editorial board of the
6 Antelope Valley Press. I just gave you an issue of that
7 article. The chief editor declined to attend the meeting. Told
8 me personally he knew what to expect, and he was wasn't going to
9 be a part of it.

10 They were trying to soften the blow about this
11 sewer sludge spreading. And the timing couldn't have been
12 worse, or it couldn't have been better for the opponents. When
13 they did try to spread the sludge on the day that they held this
14 press -- this meeting with the editorial board, the news broke
15 that they were spreading sludge out on the west -- east side of
16 our Antelope Valley, in the wind, in about five or six -- five
17 or six violations of their permit. This was a company called
18 Pima Grow.

19 It immediately set environmental activists in the
20 area out there. And you can see, we did make quite a fuss over
21 it. And it came to a head when we get to Sacramento in January,
22 and the State Water Quality Board, they rescinded the permits
23 that had been issued for this spreading. And it was a P.R.
24 nightmare for the Lahontan Water Board.

25 We feel that Dr. Nebeker's an absentee owner. He
26 lives, I think, in the vicinity of Brentwood, down below. He
27 does not live within the Lahontan boundaries, but he kind of
28 indicated he did at the hearing. Someone questioned him there.

1 We know one of his famous neighbors is O.J. Simpson.

2 Water quality issue is a big thing in the
3 Antelope Valley, because we live over a closed retention basin.
4 There is no river running through our valley. Anything that
5 goes into the basin, it's like a teacup. It remains there. So,
6 we do not like to see sewer sludge spread, and effluent spread
7 on our land. It could reach the water table in a couple of
8 decades or a couple of generations, and my grandchildren and
9 theirs would suffer, we think.

10 Local opposition is from our own group and two
11 that I just mentioned. And we have six town councils that have
12 communicated with your office today or this weekend. I've
13 asked, and the Cities of Lancaster and Palmdale have opposed any
14 sewer sewer sludge spreading in general.

15 I've asked Senator Pete Knight to be here, and
16 Assemblyman George Runner, who just had a bill restricting --
17 and it came about because of Lahonton's practice of issuing
18 those permits, that the public wasn't quite aware of it. So,
19 Mr. Runner's bill will require notification of the press and
20 city officials in the affected areas.

21 There has been quite a significant controversy
22 over this whole thing. You saw article perhaps there, showing
23 the region that Lahontan services. And we have -- the Valley
24 must speak out one editorial comment quite often, and this is
25 the sort of thing that Dr. Nebeker and Lahontan officials are
26 trying to repress.

27 Some of the permits were rescinded, but not Dr.
28 Nebeker's, to my knowledge. He's still using effluent.

1 Our water table is important to us, I say. It
2 should not be the toilet for Los Angeles. And as to the
3 beneficial reuse of sewer sludge, there's a lot of controversy
4 there, and it's being looked at all the time. And we feel that
5 the more it's brought to light, the better.

6 So, I'm against this gentleman's reappointment to
7 the Lahontan Water Board. And thank you very much.

8 CHAIRMAN LOCKYER: Were there others that wished
9 to comment?

10 Maybe we could have you talk about this issue.
11 It seems to be the only matter that has come up that raises any
12 cloud or question. And just in reviewing the materials, I
13 guess, there's the general health question that's raised, of
14 whether there are contaminants that would seep into a
15 groundwater basin.

16 And then, separate from that, just the more
17 personal one of being an user that votes on the matters. And
18 specifically when the issue came up before your Board, the
19 decision to support a negative declaration which the State Board
20 reversed and remanded for an EIR.

21 Those seem to be the three topics. If you'd
22 comment on those briefly.

23 DR. NEBEKER: Certainly.

24 In terms of the health issue, this practice is
25 supported by the U.S. EPA, California EPA, California Integrated
26 Waste Management Board, California Department of Health
27 Services, they're certainly health oriented.

28 And when we sent -- when we give waste discharge

1 requirements that tell these people how to use this and how to
2 apply it, we send it to all the county health departments in our
3 region; that's twelve. We've never gotten any negative comments
4 back from these people.

5 We try to keep an open mind on the Board. And we
6 instruct our staff to try to get all literature and talk to all
7 experts around the country that might have some inputs on this.

8 Our waste discharge requirements, as far as I
9 know, to my best knowledge and belief, if people follow those
10 rules, that there is absolutely no health problem at all that's
11 ever been documented or chance of happening in the future.

12 In terms of the user, I am a user of reclaimed
13 sewage water. And I first got my permit to do that -- it's
14 actually reclamation requirements. And that was before I was a
15 member of the regional board. So, I've just -- I've just
16 continued that.

17 Any issues that have to do --

18 CHAIRMAN LOCKYER: Do you think you need to
19 recuse because of that?

20 DR. NEBEKER: No.

21 What I do recuse myself from is any involvement
22 on any issues that have to do with Los Angeles County Sanitation
23 District. Those are the people that I get the water from.

24 Now, I have never used sludge. Never ever. I
25 have no permit to use sludge.

26 The only thing I did is, a couple years ago, when
27 this subject became controversial, I wanted to indicate to
28 everybody up there that had any objections about sludge that I

1 had no problem using it on my own facility.

2 The other thing is, I was sort of interested in
3 it --

4 CHAIRMAN LOCKYER: You kind of put your foot in
5 it, so to speak?

6 DR. NEBEKER: Right, exactly.

7 And I called Stormy Williams in particular, and
8 some other members of Mr. Talbot's group, and I asked them if
9 they had interest, to come out and learn from me because I had
10 never used it before.

11 Some people have a problem bringing waste in from
12 the City of Los Angeles. I guess I share those opinions.

13 I use stuff that was generated from the local
14 people there.

15 It was just purely on an experimental basis, and
16 I just wanted to try to show to everybody else that if I was
17 going to say that I was comfortable with it, I should certainly
18 demonstrate that.

19 CHAIRMAN LOCKYER: So, you're not a user?

20 DR. NEBEKER: No.

21 In terms of this negative declaration that was
22 overturned by the State Board, I think there's some
23 misunderstanding in why the State Board overturned it.

24 There's several regional boards that don't
25 require waste discharge, or at least there's one I know of.
26 That's the Santa Ana Regional Board, that they don't think that
27 there's a big enough threat to groundwater to even allow -- even
28 to have any need for regulation in terms of waste discharge

1 requirements or anything else.

2 That's why this whole sludge issue is an example,
3 in my mind, and our staff's mind, that there's no good deed that
4 ever went unpunished. And the fact is that our regional board
5 stuck its neck out. I was involved in some of that original
6 decision, that we thought we wanted to regulate this thing. And
7 we wanted to enforce it, because there were some concerns by the
8 public.

9 So, we initiated this thing, and even in our area
10 of Antelope Valley, and the threat to groundwater quality is
11 slim or none, but we wanted to do it to ease people's minds.
12 And now we get involved in all this controversy.

13 The reason why the State Board overturned our
14 general waste discharge requirements was simply because they
15 wanted a statewide Environmental Impact Report done. They
16 wanted to be consistent with what they did in the Central Valley
17 region, and so they overturned ours.

18 Would you like me to answer any other of
19 Mr. Talbot's accusations, or shall we just let them pass?

20 CHAIRMAN LOCKYER: Well, I think those are the
21 principal ones.

22 MR. TALBOT: I'd didn't like that term
23 accusations. I'd like to talk about points of interest.

24 CHAIRMAN LOCKYER: I think those were the issues,
25 as I recall, from Mr. Talbot's commentary.

26 SENATOR AYALA: Can I ask the witness a
27 question?

28 Your concern is the use of sludge on agricultural

1 land? Is that your concern?

2 MR. TALBOT: Yes, it is.

3 SENATOR AYALA: The sludge in this operation is
4 to the mixed with any other?

5 For instance, we have a plant in my area where
6 they get dairy waste with human waste. I don't know what else
7 is added to that, and it becomes compost

8 MR. TALBOT: Yes, sir.

9 SENATOR AYALA: And they use it for weekend
10 gardners and that sort of thing.

11 There's no smell that I'm aware of, and I'm not
12 too far from the plants itself. There's no flies.

13 The Santa Ana Regional Water Control Board
14 authorized the operation of that without any difficulty.

15 So, I'm not quite clear what the opposition is?

16 MR. TALBOT: There is a huge operation under
17 consideration by the County Board of Supervisers in Los Angeles
18 County to put an open air composting facility in the Antelope
19 Valley over our watershed. In uncovered -- no buildings
20 associated with it.

21 We have horrendous winds there. I'm sure that
22 you've probably seen some reports or know of the history of the
23 winds of the Antelope Valley.

24 And they would have these 400-foot wide piles of
25 finished compost out in the open, 16 feet high, and exposed to
26 the winds.

27 We see pathogens and PM 10s particularly
28 impacting our area, and this is all on the west side of the

1 major communities of the Antelope Valley.

2 Yes, we have a big concern about it.

3 CHAIRMAN LOCKYER: Sounds like it would violate
4 the air standards on particulates.

5 MR. TALBOT: It certainly would.

6 CHAIRMAN LOCKYER: Separate from the water issue,
7 just the air issue.

8 MR. TALBOT: The Antelope Valley, just on July
9 1st, began their own air pollution control direct. And they
10 will now -- the company that wants to build this facility
11 outdoors will now have to approach our air quality board instead
12 of the South Coast Air Quality.

13 SENATOR AYALA: The County Board of Supervisers,
14 through their Planning Commission, approved that operation?

15 MR. TALBOT: The Planning Commission turned it
16 down.

17 SENATOR AYALA: And the Lahontan Water District
18 set the rules and regulations under which they should work.

19 They didn't approve the permit for the
20 operation. They just set the standards and regulations
21 according to what they felt were necessary.

22 Are you staying that the regulations were not
23 adequate?

24 MR. TALBOT: I think you've summed it up for me,
25 yes.

26 SENATOR AYALA: But they couldn't go any lower
27 than what the state requires. They can make it stricter, but
28 not any less strict than what the state requires.

1 But again, they were not the control. The Water
2 Quality Control Board had nothing to do with the plant itself.
3 It's the Board of Supervisers through their Planning Commission.
4 All these folks do is set the minimum requirements to operate
5 the plant.

6 MR. TALBOT: Yes, and they issued the permit to
7 spread raw sludge.

8 You're talking about the compost the Green Waste,
9 and what-not.

10 SENATOR AYALA: It's the same difference. You
11 don't use any dairy waste this this operation as we do down in
12 my area. You use sludge from some municipal water district that
13 you have there some place.

14 You have to dispose of the sludge some place.
15 What would you do with it otherwise?

16 MR. TALBOT: I would think the best solution
17 would be for a Mono landfill for a singular use of sewer sludge
18 instead of --

19 SENATOR AYALA: The only other problem I see with
20 their operation is the fact that you don't restrict who deposits
21 into that area. You can bring the sludge from anywhere in L.A.
22 County.

23 MR. TALBOT: That's the proposal before the Los
24 Angeles County Board of Supervisers right now.

25 SENATOR AYALA: You don't want to become the
26 dumping area for the County of Los Angeles.

27 MR. TALBOT: We certainly don't.

28 SENATOR AYALA: That's the only restriction that

1 I understand should be looked at, and I don't know how you're
2 going to do that. If it's the same county, how can you say only
3 those that live in the valley can dispose of their waste there?

4 MR. TALBOT: I know it. We are fighting off a
5 waste monster, I tell you.

6 CHAIRMAN LOCKYER: Thank you, sir.

7 Additional questions from Members? Is there any
8 additional testimony?

9 Did you want to close? Anything you'd say in
10 summing up here.

11 DR. NEBEKER: No, Mr. Chairman. I don't have any
12 other comments.

13 CHAIRMAN LOCKYER: You've served seven years.
14 What's the pleasure?

15 SENATOR LEWIS: Move confirmation.

16 CHAIRMAN LOCKYER: We have a motion by Senator
17 Lewis to recommend to the Floor confirmation. Call the roll.

18 SECRETARY WEBB: Senator Ayala.

19 SENATOR AYALA: Aye.

20 SECRETARY WEBB: Ayala Aye. Senator Brulte.

21 SENATOR BRULTE: Aye.

22 SECRETARY WEBB: Brulte Aye. Senator Hughes.

23 SENATOR HUGHES: Aye.

24 SECRETARY WEBB: Hughes Aye. Senator Lewis.

25 SENATOR LEWIS: Aye.

26 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

27 CHAIRMAN LOCKYER: Aye.

28 SECRETARY WEBB: Lockyer Aye. Five to zero.

1 DR. NEBEKER: Thank you.

2 CHAIRMAN LOCKYER: Good luck, sir.

3 Finally we have Ms. Richardson. She'll be back
4 in a moment.

5 We have the roll open on Mr. Del Junco. It's
6 currently three to one, and it'll be three to two.

7 SECRETARY WEBB: Senator Brulte.

8 SENATOR BRULTE: No.

9 SECRETARY WEBB: Senator Brulte No. The vote is
10 three to two.

11 CHAIRMAN LOCKYER: Maybe I could take up the
12 legislation recommended for consent.

13 [Thereupon the Rules Committee
14 acted upon legislative agenda
15 items.]

16 CHAIRMAN LOCKYER: Hi. Do you want to start with
17 any comment?

18 MS. RICHARDSON: Sure.

19 Mr. Chair and Members of the Rules Committee,
20 thank you for giving me the opportunity to appear before you.
21 I'm here today asking for confirmation to the position of Member
22 of the Agricultural Labor Relations Board. I will try to
23 summarize my qualifications for you.

24 This would be my third term. I started my third
25 term last January. I have served on the Board for
26 ten-and-a-half years. During that time, I have participated in
27 181 decisions. I have participated in 227 administrative
28 orders, supervised 172 elections, and also oversee the

1 disbursement of over \$13 million to over 14,000 farmworkers.

2 I think that my record of ten-and-a-half years
3 reflects my fairness and impartiality to all of the parties.

4 I'm also the most senior and most experienced
5 member on the Board. I'm also, in the ten-and-a-half years that
6 I have been there, have been the only member who has had
7 experience in labor relations.

8 Prior to being appointed to the Board, I was the
9 chief negotiator for nine years with Sacramento County and with
10 the State Department of Personnel Administration. I know what
11 it is to sit at the bargaining table and negotiate a collective
12 bargaining agreement with both independent unions and with
13 unions that are associated or affiliated with the AFL-CIO.

14 I know what it is to go through an organizing
15 campaign and trying to maintain cool heads.

16 During my tenure, I've participated in two sets
17 of regulatory hearings, in the 1989-1980, and the 1993 through
18 1995. And I have been sensitive and responsive to the needs of
19 the parties all along.

20 During my tenure and as a big supporter of it, we
21 have developed an outreach educational project to educate
22 growers and farmworkers as to their rights and their
23 responsibilities under the Act.

24 Back in the early '80s, we used to have a staff
25 of about over 175 people. We used to have a budget of over \$10
26 million.

27 We're now down a little bit over \$3 million and
28 less than 50 people. That covers both the Board's side and the

1 General Counsel's side.

2 The General Counsel, as you know, does not work
3 for us. He's independently appointed and confirmed by the
4 Senate, and he has prosecutorial responsibilities.

5 I am very proud and very pleased of that project,
6 and we just developed a video. We have developed the written
7 materials both in English and Spanish. We have developed the
8 video -- the English version of the video has just been
9 completed. We intend to translate it Spanish.

10 We have developed a -- call it an educational
11 type of classroom setting, if you want to, a presentation, so we
12 can go, and our presentation will be augmented by the written
13 materials and by the video.

14 Last spring, I was -- I should say that I would
15 like to be able to have the next term to be able to see the
16 fruition of this project that I started during my second
17 tenure.

18 Just last spring, I was asked and I accepted to
19 become a Member of Board of Directors for the Workplace
20 Institute. And the Workplace Institute is a nonprofit
21 organization whose responsibility or whose mission is to develop
22 the framework where by employers and labor will come together to
23 strengthen labor and management relationships through the
24 utilization of intraspace, problem solving, and negotiating.
25 The membership is comprised of members of labor and management
26 and neutrals. And I'm very proud to say that I'm member of that
27 Board of Directors.

28 I think you all know that since the signing of

1 the Agricultural Labor Relations Act in 1975, the relationship
2 between the parties have not been, I would say, a friendly
3 relationship. There has been a lot of adversarial
4 relationships.

5 And I'd like to be able to see this come to
6 fruition, and see us moving into a phase of being adversaries
7 [sic], seeing the parties moving from being adversaries to a
8 phase where they come together, and they can work their
9 differences.

10 I guess in closing, I would say that I believe
11 that I have done a good job in my position. Being a judge is
12 not an easy job. In these ten-and-a-half years, I have been
13 referred pro-grower. I have been referred as pro-farmworker.
14 But I guess when it come down to it, that's probably the best
15 testimony as an indication of the kind of job I have done.

16 I have not prejudged the facts before they come
17 to me. I have waited for the facts to come to me as a judge,
18 and I have ruled accordingly. And that's what I intend to do in
19 the next five years if I am confirmed.

20 With that, I would be glad to answer any
21 questions that you may have.

22 CHAIRMAN LOCKYER: Let me inquire first if
23 there's anyone who wishes to comment?

24 We have questions as well. Let's start with,
25 perhaps, the access rule.

26 I guess there are always discussions of the
27 general philosophy as well as the specifics of the rule. I'd be
28 interested in hearing your views both as to the general

1 philosophy as well as the specifics. That is, that no more than
2 30-day periods when there are limited numbers of organizers who
3 have access before, after, and during lunch.

4 Could you comment on discussions that you may be
5 aware of of possible changes in the access rule, and what your
6 views are about the general philosophy and the specifics?

7 MS. RICHARDSON: Okay.

8 If I may start by saying for the clarification of
9 everybody, under our statute, the unions are given rights to
10 access employees in the employers' and the growers' fields so
11 that they can talk to and seek support from the farmworkers to
12 be organized by that union.

13 Access regulations are not in the law. Access
14 regulations were passed by the Board, I believe, in the late
15 '70s or early '80s. They were challenged. They went to the
16 court, and they were upheld by the court.

17 The access regulations detail what violations may
18 be -- they're by the employer or by the union -- and sets some
19 remedies in terms -- in a very vague fashion in terms of what
20 those remedies will be.

21 I know that the union has been concerned about
22 those, and I have had discussions with them over the last couple
23 of weeks. And I have told them that it is not my intent to
24 eliminate or dismantle in any way the existing access rights
25 that they have to farmworkers.

26 What I want to do is improve on the processes
27 that we have. One of those, if I may take a couple of minutes
28 of your time, the problem that we have had has been what we call

1 motions to deny access.

2 If a union organizer comes into a grower's field
3 and says, "I want to take access," and employer says, "No, you
4 will not," the remedy that the union has is to go to the nearest
5 regional office and file an unfair labor practice charge.

6 If the employer -- if we have same situation and
7 the employer feels that the union has violated those access
8 rights, he has a right, or she has a right to file what is
9 called a motion to deny access.

10 And we haven't really had that many of those
11 motions come before us because there have not been that many
12 organizing campaigns during my tenure. And it came up for the
13 first time last year, and we took a look at the access
14 regulations. And we saw that it said before the union organizer
15 is prevented from taking access, is denied access, a hearing
16 shall be held.

17 But the access regulations did not tell us, what
18 do you see? What do you read to make a determination before you
19 decide if there's going to be a hearing or not.

20 So, we set up a mechanism, and we did it through
21 a Board decision. Shortly thereafter, there was motions to deny
22 access that we reviewed based on that decision.

23 It became apparent to us that the system that we
24 have come up with still did not satisfy what we, as judges,
25 wanted. That is, to be able to serve -- to see justice being
26 served in an expeditious way.

27 To me as judge, Senator, justice is not being
28 served when I'm hearing a case where the event that triggered

1 that case took place six months, eight months, a year, and two
2 years ago.

3 CHAIRMAN LOCKYER: Would that be true if it's an
4 unfair, for example?

5 MS. RICHARDSON: Exactly, exactly.

6 And so, last spring, when we read that the union
7 was once again was going to start, as we read, a massive
8 organizing campaign of the strawberry workers in the coast, in
9 the Watsonville area, I went to my Board members and I said,
10 "There has to be a better way of doing this." And I said to
11 them, "I want to look at what is called alternative dispute
12 resolution methods."

13 And so, I directed my Board counsel to call the
14 NLRB, the Federal Labor Relations Authority, the Federal
15 Mediation and Conciliation Service, et cetera, et cetera, and
16 see what they were doing, and how we would come up with a
17 process that would be better.

18 What we ended up then proposing to the Board was
19 what I would call a pilot project, where nobody's rights were
20 going to be changed. Nobody's rights were going to be
21 eliminated.

22 But what I was trying to do is to interject an
23 informal process before everybody would go out and filing formal
24 things. I wanted to be able to bring a facilitator or a
25 mediator to meet together with the parties as soon as it
26 happened to be able to try to bring a solution to the parties.

27 As it happened, the attorneys in my Board took a
28 look at it and they said, "We cannot do this. This would not be

1 seen as a pilot project. This would be seen as an underground
2 regulation, and the Office of Administrative Law will throw it
3 out."

4 Then we looked at, well, would it meet the
5 emergency guidelines of an emergency regulation. We took a look
6 at that. Again, our attorneys advised us that it did not meet
7 the general welfare, health, and public safety.

8 So, it didn't go anywhere, but at least it
9 brought to -- once again the Board realized that there has to be
10 a better way of dealing with these issues on an expeditious
11 basis without violating or eliminating anybody's rights.

12 And so, there's certain things that were done
13 that we can do with it in terms of how soon we can try to
14 attempt to call for what is called a prehearing conference, move
15 things along quicker.

16 Does it satisfactory me personally? No. I guess
17 it has to do with the fact of my background as a chief
18 negotiator. When I had a problem with the union, I would say to
19 the union person, "Let's take a walk around the block, and let's
20 see if we can resolve this." And that's what I would like to
21 see.

22 But anyhow --

23 CHAIRMAN LOCKYER: So, I think there may be still
24 some potential for improving the --

25 MS. RICHARDSON: Existing processes, yes,
26 Senator.

27 CHAIRMAN LOCKYER: Especially around the
28 prehearing conference?

1 MS. RICHARDSON: Some of the things that were
2 implemented to be able -- that would move the cases along more
3 expeditiously, but it still, if you ask me, if I had the
4 authority to be able to change something, I would say what I
5 would like to be able to do is that, as soon as the union
6 organizer comes into the fields, and either party feels that
7 their rights have been violated, I would like to be able to get
8 a mediator or facilitator, right there and then, either through
9 a conference call or through the parties within two days. Let's
10 hear both sides. Let's see what we have to do. This is the
11 decision.

12 CHAIRMAN LOCKYER: You can't do that now, sort of
13 an informal --

14 MS. RICHARDSON: We have to do it through
15 regulations. The Office of Administrative Law would not allow
16 us to do it.

17 CHAIRMAN LOCKYER: I don't mean the Board itself,
18 perhaps, but --

19 MS. RICHARDSON: That the parties can agree to do
20 so.

21 CHAIRMAN LOCKYER: Yes.

22 MS. RICHARDSON: They certainly can, but we have
23 not --

24 CHAIRMAN LOCKYER: And there's no formal
25 mechanism, I guess, for that?

26 MS. RICHARDSON: No, Senator.

27 CHAIRMAN LOCKYER: Let me take another issue,
28 make whole remedies.

1 MS. RICHARDSON: Yes, Senator.

2 CHAIRMAN LOCKYER: I'm not there, reading all the
3 opinions, so I can only mention the comments that have been
4 made.

5 You are appointed to represent the general public
6 or a public member of the Board. Your history, your work
7 history, however, has been representing management in various
8 contexts.

9 MS. RICHARDSON: I was the chief negotiator for
10 management for nine years for the Sacramento County and for the
11 State Department of Personnel Administration.

12 CHAIRMAN LOCKYER: So, it may be that history
13 that makes some ask if there's a pattern with respect to
14 requests for make whole remedy that have come before the Board.

15 The claim is, and there's a bunch of cases cited,
16 Church and so on and so forth. The claim is that you're very
17 reluctant to use the make whole remedy if there's any dispute at
18 all between labor and management as to the charge.

19 Do you have any thoughts about the philosophy in
20 the particular times and when it may be appropriate or not?

21 MS. RICHARDSON: Before I address the philosophy
22 on make whole, let me first state that I cannot go back and
23 change my background, my work background. I was the chief
24 negotiator for management, and I do not deny that.

25 However, when you are a good advocate, you
26 develop a good relationship. You have to put yourself in the
27 shoes of your counterpart, because that's the way you are -- the
28 person has needs, you have needs. In order to reach a

1 collective bargaining agreement, you have to compromise, and you
2 have to reach agreement.

3 CHAIRMAN LOCKYER: Whose shoes are you in now?

4 MS. RICHARDSON: I'm the shoes of a judge,
5 Senator, yes.

6 And I have to say, like I said earlier, that my
7 experience, having been a chief negotiator, having been at the
8 bargaining table, having been through organizing campaigns, have
9 been an asset to me on the Board in being able to share that
10 knowledge with other Board members and with staff, who have no
11 experience in collective bargaining.

12 I don't think that this is something that you can
13 teach from a book. This is something that you have to live.

14 So, I have always been cognizant that I'm there
15 as a judge, not as a former management advocate, not as being
16 biased on either side.

17 When the law was written, it said that make whole
18 -- this would be the remedy that would be applied. That is
19 appropriate, and I do not disagree with that position.

20 And so, when make whole has been called for, I
21 have so ruled. And when it has not been appropriate, I have so
22 ruled.

23 I have to say, Senator, that in the
24 ten-and-a-half years that I have been there, there's very few
25 cases of make whole that have come up before the Board, because
26 there was not that many organizing and/or signing of collective
27 bargaining agreements.

28 CHAIRMAN LOCKYER: Right.

1 MS. RICHARDSON: One of those things that I did,
2 your office requested, I submitted the 181 decisions. And I
3 think that you can tell by that history that I have so ruled on
4 make whole when I felt it was appropriate, and when not.

5 CHAIRMAN LOCKYER: Does a case come to mind where
6 it was appropriate?

7 MS. RICHARDSON: I can tell you right now that
8 there was one that happened a couple of months ago, and I cannot
9 discuss it because it's in litigation.

10 CHAIRMAN LOCKYER: Can you give me the kind of
11 problem that necessitated that remedy?

12 MS. RICHARDSON: Make whole usually comes to
13 us -- has come to us on what is called bad faith bargaining or
14 surface bargaining.

15 CHAIRMAN LOCKYER: Right.

16 MS. RICHARDSON: To me, like I said, my
17 background, having negotiated --

18 CHAIRMAN LOCKYER: You can tell if it's real or
19 not?

20 MS. RICHARDSON: Yes. And I have seen cases
21 where it is has been so -- so obvious.

22 And we also have a legal standard that was
23 established by the -- under the -- I believe it's the J. R.
24 Norton court decision. It was a case where the Board found make
25 whole. This was late '70s, early '80s, Senator. Don't quote me
26 on the specific year. The Board found make whole.

27 It was appealed by the employer to the court.
28 And the court threw it out and said, the Board will not apply

1 make whole in every case that they see of surface bargaining or
2 bad faith bargaining. You have to take a look at the totality
3 of the circumstances before you would apply it.

4 And that has been the legal precedence that was
5 in existence at the time that I came in, and it's in existence
6 at this point in time. And I have lived by that.

7 CHAIRMAN LOCKYER: I do remember there were some
8 early examples that seemed to be abusive, where there probably
9 was excessive punishment, where a farmer was required to read
10 public statements in the town square, and somethings that seemed
11 a little unrelated to the abuse.

12 So, you're not contemplating changes in make
13 whole policy?

14 MS. RICHARDSON: No, Senator.

15 CHAIRMAN LOCKYER: As a judge, you look at each
16 case as it comes by.

17 MS. RICHARDSON: And also, to let you know, and
18 I'm pretty sure you know this, make whole's in the law. And we
19 as a Board cannot change the law.

20 CHAIRMAN LOCKYER: Do you have a backlog of
21 cases?

22 MS. RICHARDSON: Not right now, Senator, no.

23 CHAIRMAN LOCKYER: You're okay.

24 I have in my notes that there's 187 unfairs that
25 have been filed that date back a year-and-a-half or so.

26 Is that not a backlog?

27 MS. RICHARDSON: Again, I want to make the
28 distinction between the Board and the General Counsel.

1 The General Counsel -- unfair labor practice
2 charges are filed with the regional staff. They're investigated
3 by the field examiners. The General Counsel has complete and
4 total prosecutorial authority. I guess you could call the
5 General Counsel our gate keeper.

6 If those charges turn into complaints, those
7 complaints go to hearings, and those decisions are then appealed
8 to us if either party does not like the administrative law
9 judge's decision.

10 So, we cannot -- we do not control the General
11 Counsel.

12 CHAIRMAN LOCKYER: You won't hear it.

13 My notes also indicate there's 15 complaints
14 awaiting a hearing, but that may be due to staffing of the
15 General Counsel's office.

16 MS. RICHARDSON: If they're waiting hearings,
17 it's because a number of things could happen. They have not
18 been scheduled for hearing because the witnesses may not be
19 available. The attorneys that are representing both parties,
20 they're not available to hear it. They may be in the process of
21 a prehearing conference, so something may not have been
22 scheduled. It can be for a number of reasons.

23 But in terms of the backlog, when you say is
24 there a backlog before the Board, I interpret that by saying,
25 are there any cases right now pending before the Board, where
26 the case has been transferred to the Board? That's what I was
27 referring to, the answer is no.

28 CHAIRMAN LOCKYER: Does the Board have a role in

1 recommending reorganizations within the system?

2 MS. RICHARDSON: Within our agency.

3 CHAIRMAN LOCKYER: If there's a backlog somewhere
4 along the way in the agency, do you have any role?

5 MS. RICHARDSON: Sure. We wear two hats. We
6 wear the quasi-judicial hat when we sit as a Board and we're
7 issuing decisions, et cetera, et cetera.

8 And we have our regulatory hat, and we have our
9 administrative hat. As administrators, we are running an
10 agency. And we have employees to supervise. So, any
11 reorganization that may occur comes before us. We will be
12 making the determinations as to that reorganization.

13 CHAIRMAN LOCKYER: Now, wearing that hat, are
14 there any changes contemplated in the administrative structure
15 to deal with the unfairs that stack up or whatever?

16 MS. RICHARDSON: The reorganization that has
17 been -- that is pending before the Board had to do with the
18 caseload. Our workload is caseload driven. If we don't get --
19 if the elections do not occur, if the unfair labor practice
20 charges do not go to complaint and decisions are issued, we
21 really do not have any work coming before us.

22 What has happened is that the majority -- the
23 majority or the bulk of our caseload has been on litigation. I
24 would say -- I can safely say, Senator, that 70 to 80 percent of
25 our decisions issued by the Board are appealed to court.

26 CHAIRMAN LOCKYER: Seventy-six?

27 MS. RICHARDSON: Seventy to eighty percent. I'm
28 taking a guess of the bulk of them.

1 The bulk of our decisions are appealed to the
2 Board. By statute, those decisions can only be appealed to the
3 appellate courts or higher.

4 However, in the last couple of years, we have had
5 parties taking us to superior courts.

6 CHAIRMAN LOCKYER: What happens then?

7 MS. RICHARDSON: Well, we go there and fight it.
8 We tell the judges --

9 CHAIRMAN LOCKYER: Send it to the appellate?

10 MS. RICHARDSON: I just heard you saying earlier,
11 what happens when you say, "with all due respect," you're going
12 to say something disrespectful.

13 CHAIRMAN LOCKYER: Yes.

14 MS. RICHARDSON: Well, in a very nice way, we
15 tell the superior courts, this is none of your business.

16 CHAIRMAN LOCKYER: They don't have jurisdiction?

17 MS. RICHARDSON: Exactly.

18 But we still have to be present, write briefs.
19 We still have -- if oral argument is called for, we have to send
20 our attorneys.

21 What has happened is, that has been the bulk of
22 our workload, and we do not have a solicitor or a litigator
23 trained as a litigator to represent our interests in court.

24 So what we have is, we have three Board counsels.
25 They were hired to provide advice to us, Board counsels.

26 With the downsizing that has occurred in our
27 agency, we have our Board counsels wearing three hats: Board
28 counsels, advisors to us; the Executive Secretary who has

1 independent authority, for example, see election objections and
2 set it for hearings. He doesn't have a staff, so he calls on
3 our Board counsel to function as an executive secretary. And
4 then, when our decisions are issued and they're appealed to the
5 higher court, our Board counsels are then called upon to
6 litigate them.

7 I've got to tell you that it's just -- it's just
8 not working.

9 CHAIRMAN LOCKYER: How would you try to fix that?

10 MS. RICHARDSON: So what we did, and that brings
11 us to the reorganization, we said, okay, where do we have lower
12 caseload and where do we have the higher caseload? So what we
13 looked at is, we have two -- right now, two full-time
14 administrative law judges positions and one half-time, gave us
15 three people. What we have seen is that it's not that many
16 hearings are happening because we're not getting the decisions
17 from the administrative law judges.

18 So, we still -- we wanted to maintain the
19 flexibility of three people, but we really did not need to have
20 two full-time positions. We figured that if we cut one position
21 to half-time, we could take the money from that half-time, tie
22 it together with a vacant senior Board counsel position, and
23 come up with the money for a full-time solicitor, which we need
24 very badly to be able to defend our decisions before court.

25 It has been brought to my attention that, from
26 the unions, that they would not like to see that happen because
27 they're concerned that at the point in time when all these
28 unfair labor practice charges are adjudicated and they come

1 before us, the bodies will not be there.

2 So, I have been talking to the union representing
3 that classification and trying to see how we can come up with
4 monies to be able to fund the solicitor position without
5 eliminating the ALJ. And I have told him that I would be
6 receptive to that idea.

7 CHAIRMAN LOCKYER: I don't know how you check
8 workloads with ALJs. I probably ought to be careful here, but
9 does somebody check to see how many hours --

10 MS. RICHARDSON: We have statistics that we have
11 collected. As a matter of fact, when we presented the
12 reorganization plan to the State Department of Personnel
13 Administration, which has to give you their blessing, we
14 collected all these statistics. We showed them in terms of
15 how -- the dramatic change that has gone from years past to
16 this. The fact that we don't have to justify it, but we do need
17 this solicitor very badly.

18 CHAIRMAN LOCKYER: You couldn't get a solicitor
19 added, though, in the budget requests? Have you asked Governor
20 to include the funds for a solicitor?

21 MS. RICHARDSON: Not at this point in time. And
22 I have to say in all candidness, Senator, I have in the last
23 seven years, four or five out of the seven years, we have been
24 recommended to be done away with and be merged with PERB. When
25 people are recommending for you to be done away with because of
26 the caseload, I don't think it's a good idea to go and ask them
27 for more money. So, we have been gun-shy.

28 CHAIRMAN LOCKYER: There's some logic to that,

1 except you aren't going to be done away with.

2 I know Senator Ayala has questions.

3 SENATOR AYALA: Ms. Richardson, how long have you
4 been on the Board now?

5 MS. RICHARDSON: I have been there ten-and-a-half
6 years, Senator.

7 SENATOR AYALA: Why do you think the number of
8 union representation elections have declined over the years?

9 MS. RICHARDSON: Let's see. We held during
10 this -- from March 1st of '87 to June 30th of 1997, 224
11 petitions for elections were filed; 28 of those petitions were
12 dismissed.

13 SENATOR AYALA: How many were filed?

14 MS. RICHARDSON: Two hundred and twenty-four were
15 filed; 28 petitions were dismissed; 37 petitions were withdrawn;
16 172 elections were held; 161 elections were certified. Of
17 those, in '87, of those elections, the union was certified as
18 the collective bargaining representative --

19 SENATOR AYALA: How far do you go back with those
20 numbers?

21 MS. RICHARDSON: I'm going to March 1st of 1987.

22 And 74 resulted in no union certification.

23 SENATOR AYALA: The California Department of
24 Personnel Administration recently rejected a reorganization plan
25 for the ALRB that was proposed by the Board.

26 MS. RICHARDSON: Right.

27 SENATOR AYALA: The plan would have cut a hearing
28 officer position to half-time in order to have a fourth

1 full-time senior level attorney to represent the Board on the
2 court cases.

3 How did you vote on that, to cut back on the
4 position to half-time of a hearing officer in order to get a
5 fourth full-time attorney to represent you folks. How did you
6 vote on that?

7 MS. RICHARDSON: That was the situation that I
8 was just alluding earlier with Senator Lockyer in terms of the
9 reorganization plan, indicating that our caseload is high on
10 litigation, and we don't have anybody in the Board trained to be
11 a litigator for us in the courts. And we have a low caseload in
12 terms of hearings, so we don't need as many administrative law
13 judges.

14 So again, being gun-shy in terms of not -- didn't
15 think that our question for more money was going to be received
16 well --

17 SENATOR AYALA: So, you felt that a fourth
18 full-time attorney was more important at that point than a
19 hearing officer?

20 MS. RICHARDSON: Nobody's more important,
21 Senator, but that in terms of our caseload, when we are being
22 taken to the -- when 80 percent of our decisions are being
23 appealed to court, we need somebody who's trained to be able to
24 defend our positions in court.

25 So, we felt was that we didn't need
26 two-and-a-half ALJ positions. What we wanted to do was cut one
27 of the full-time positions to half. We would still have three
28 people on board. We would still have the flexibility to be able

1 to hear the cases. But it would give us the very badly needed
2 litigator that we don't have.

3 And so, that decision, based on being fiscally
4 responsive, thinking that we would not be -- our request for
5 more money would be well received by the Legislature or
6 Department of Finance, we went with that reorganization to DPA.

7 DPA's response was, you have not been able to
8 provide sufficient information for us to say yes, go ahead and
9 do so.

10 As I mentioned earlier, the unions have
11 expressed -- one of the unions, the UFW, came -- not the UFW,
12 the ACSA and the UFW -- and I have to say, UFW, have indicated
13 opposition, have expressed opposition to that because they're
14 concerned in terms of, if in the future we get tons of unfair
15 labor practice charges that comes to us, we may not have the
16 necessary individuals.

17 So, we are looking and talking about
18 possibilities of getting additional monies without eliminating
19 ALJ, and I have indicated earlier that I would be receptive to
20 that.

21 SENATOR AYALA: Last year, ALRB ruled in its
22 Navarro decision that the UFW organizers must cease and desist
23 from utilizing the ALRB's access rule for the primary purpose of
24 inspecting certain employer-provided facilities and advising
25 employers when and how they believe the same employers very
26 committed infractions of regulations governed by the different
27 state agencies, Cal-OSHA and others.

28 How did you vote on that, on the Navarro

1 decision?

2 MS. RICHARDSON: These are the cases that I was
3 referring to, Senator.

4 Last year, on the motions to deny access, and I
5 do not have my Board counsel over here to tell you if the
6 Navarro decision right now is in litigation or not. If it's in
7 litigation, I cannot --

8 SENATOR AYALA: My question is, how did you vote
9 on that particular case?

10 MS. RICHARDSON: Well, I'm trying to remember.
11 If we were talking -- I can't -- I don't have the case --

12 SENATOR AYALA: Let me remind you, this is where
13 the Board ruled that the union must cease and desist from
14 utilizing the access to the fields to inspect the facilities.

15 MS. RICHARDSON: I see, okay.

16 The reason why I'm being cautious is because we
17 had a number of cases here that dealt with that same issue, and
18 we felt -- the ALJ found that the union had violated the access
19 regulations, and we upheld the ALJ.

20 SENATOR AYALA: Don't they have that right to go
21 into the fields to check the facilities?

22 MS. RICHARDSON: I'm going to explain.

23 The access regulations say that the union have
24 the right to go into the fields to talk to and solicit the
25 support of farmworkers for the purpose of organizing.

26 There was some cases that we decided last year
27 where the Board ruled that the primary purpose of the union in
28 going to take access was not to talk to the employees or to

1 solicit their --

2 SENATOR AYALA: We're talking about two different
3 things.

4 MS. RICHARDSON: I'm getting there.

5 SENATOR AYALA: We're talking about the
6 inspection of facilities provided for the workers.

7 MS. RICHARDSON: I'm going to get to that.

8 So that the primary purpose that the union, in
9 taking access, was not to solicit -- to talk to or solicit
10 support for the purpose of organizing, but to the inspect water
11 and toilets.

12 And the Board in its decision said that that is
13 not the intent, that is not the purpose of taking access. It
14 was not to inspect toilets or water. And the Board ruled
15 accordingly. And I was in the majority in that decision.

16 As I said, I can't say much more about it because
17 it was appealed, and it's being litigated.

18 But I have also said to you that I do not have
19 what my position is on existing access. I don't have a problem
20 with the rights that the union have --

21 SENATOR AYALA: So, you voted yes, with the
22 majority, to prohibit the union representatives to go in the
23 fields to inspect the facilities provided by the farmers?

24 MS. RICHARDSON: Under the access regulations.

25 SENATOR AYALA: Right, you voted to cease and
26 desist on the union from access rule for the primary purpose of
27 inspecting facilities.

28 Let me tell you that as a former farmworker,

1 those are extremely sensitive needs for the farmworkers. And
2 you refused to let the union people go into the fields to
3 inspect those facilities? I don't understand that.

4 MS. RICHARDSON: Not under the access
5 regulations. The access regulations are very clear.

6 SENATOR AYALA: Not to lobby the workers, but
7 just to inspect the facilities, is what I'm reading here.

8 MS. RICHARDSON: But what I'm saying is that
9 under the access regulations, access regulations are very clear
10 in the sense that they're there to talk to the union about
11 organizing and to solicit their support. That is what the
12 access regulations are for.

13 That's what previous Board members that have
14 occupied my position many years ago, that's what they said
15 access regulations were to be used for.

16 SENATOR AYALA: You can't go by what other people
17 did. It was before you, and you voted with the majority to
18 oppose any inspection of these facilities by the union people.

19 MS. RICHARDSON: Well, previous Board decisions
20 are precedent to us, and we follow legal precedent, Senator.

21 SENATOR AYALA: I don't think I have any more
22 questions. Thank you very much.

23 MS. RICHARDSON: Thank you, Senator.

24 SENATOR HUGHES: Following the same nature of the
25 conversation with Senator Ayala, you were making the point that
26 the access regulations said that union members could come and
27 converse with workers regarding organization; is that correct?
28 Regarding organization?

1 MS. RICHARDSON: I don't have the specific
2 language over here.

3 SENATOR HUGHES: No, I'm talking about what you
4 just said. I'm trying to paraphrase to make sure that I
5 understood what you said. Did you not say that?

6 Senator Ayala asked you that, in this particular
7 incident, and I don't remember the name of the case that Senator
8 Ayala asked you about, that the agents came to approach the
9 workers about the conditions, toilet facilities and other
10 conditions, and it was not for organizational purposes.

11 Is that what I heard you say?

12 MS. RICHARDSON: That's the way --

13 SENATOR HUGHES: No, is that I heard you say?

14 MS. RICHARDSON: That's the way the Board
15 interpreted --

16 SENATOR HUGHES: Is that what you said?

17 MS. RICHARDSON: Yes, Senator.

18 SENATOR HUGHES: All right. We have it recorded.
19 I could read it from the recording, but I'm just reiterating to
20 make sure that I heard you say that.

21 It seems to me that circumstances around the
22 conditions would be motivational or nonmotivational to workers
23 wanting to organize or be a part of the organization.

24 If we did not have adequate toilet facilities on
25 this floor, and we as members of the public, and we as Members
26 of the Legislature didn't have adequate toilet facilities, I
27 think that we would be outraged.

28 Don't you, as someone who is sitting here, and if

1 you have to use toilet facilities, wouldn't you be outraged?

2 MS. RICHARDSON: Yes, Senator.

3 SENATOR HUGHES: All right. And if Senator
4 Lockyer says because we have no where to send you,
5 Ms. Richardson, to relieve yourself, don't you think it would be
6 nice if we complained to whoever runs this building, that you
7 would join him.

8 CHAIRMAN LOCKYER: The Governor.

9 SENATOR HUGHES: Yes. All right. I didn't know
10 he was in charge of this particular building, but that's fine.

11 CHAIRMAN LOCKYER: Certain parts of it.

12 SENATOR HUGHES: So, I'm just trying to make an
13 analogy.

14 Don't you think that you would say, yes, I'd join
15 you because I'm in misery. I cannot go and relieve myself.

16 So, what I'm saying to you is that the legitimacy
17 of the reason that they were there is one that you're trying to
18 prove as not legitimate, because in your perception, that didn't
19 have anything to do with organization.

20 MS. RICHARDSON: I will respond when you're
21 finished, Senator.

22 SENATOR HUGHES: No, I want you to respond to the
23 question I'm asking you now. I don't want you to build a new
24 case.

25 MS. RICHARDSON: Okay.

26 In terms of the enforcement of the working
27 conditions as to water and as to toilet facilities fall within
28 another agency called Cal-OSHA.

1 The union has the right at any point in time,
2 when they feel that the toilets are not -- clean toilets are not
3 being provided, and potable water are not being provided, they
4 certainly have the right and the farmworkers have the right to
5 be able to go to Cal-OSHA and say, "Send an inspector over here
6 and find out." And they have -- and those individuals from
7 Cal-OSHA have the right to be able to enforce and tell the
8 grower, "You will provide potable water and you will provide
9 clean toilets."

10 That is the function of Cal-OSHA. It is not the
11 function of the ALRB.

12 SENATOR HUGHES: All right. What I read here
13 from the code, Section 1140.2 of the California Labor Code
14 states with respect to the ALRB, "It is hereby stated to be the
15 policy of the State of California to encourage and protect the
16 right of agricultural employees."

17 MS. RICHARDSON: Correct.

18 SENATOR HUGHES: So, you have a right, a right to
19 have toilet facilities. That's a human right.

20 And you're telling me that that is not here in
21 the code? It says protect the rights.

22 MS. RICHARDSON: As it pertains to the collective
23 bargaining rights of the farmworkers. We are here, our agency
24 enforces and administers the Agricultural Labor Relations Act.

25 SENATOR HUGHES: In further reading on the same
26 line it says, "and to negotiate the terms and the conditions of
27 their employment."

28 A condition of employment is whether you have or

1 do not have sanitary conditions to meet your physical needs. Do
2 you agree or disagree?

3 MS. RICHARDSON: I do not disagree. That
4 statement is preceded by the word, "and to negotiate." Once the
5 union has been certified after a duly elected election, the
6 union is certified as the bargaining agent for the employees,
7 that union has the right to come and take access to the
8 employers. We ask they do -- they try to have an agreement as
9 to that.

10 But post-certification access will be allowed the
11 union to have, so they can come in, and they can talk to the
12 employees about -- not only about terms and conditions of
13 employment, but about wages and anything else that falls
14 within --

15 SENATOR HUGHES: Yes, and this was the anything
16 else that fell within the jurisdiction.

17 MS. RICHARDSON: They were not taking access --
18 they were not negotiating. They had not become the union, the
19 certified bargaining agent at the time this happened, Senator.
20 They were trying to organize the employees.

21 SENATOR HUGHES: In terms of your self perception
22 and how you have functioned on this Board, do you feel that it's
23 your role as a Board member to be an active agent for these
24 employees? Or, do you see your role simply as a neutral agent?

25 MS. RICHARDSON: I see my role as a judge. I see
26 my role as somebody who will not prejudge the cases before me.

27 I see -- I see myself as somebody who will look
28 at the totality of circumstances and always be willing and able

1 to listen to all the parties, the farmworkers, the union that
2 represent the farmworkers, and the employers.

3 SENATOR HUGHES: Now may I go back to my original
4 question which you turned around?

5 Do you view your role as an active agent for the
6 agricultural employees, or do you view your role simply as a
7 neutral agent? Answer yes, you see are role as an active agent,
8 or you simply see your role as a neutral agent.

9 MS. RICHARDSON: Well, I think that I see the
10 role of a judge as being neutral.

11 SENATOR HUGHES: Not as a judge. Of your role,
12 your role as a member of the Board.

13 MS. RICHARDSON: I see my role as member of the
14 Board as a neutral.

15 SENATOR HUGHES: Explain that neutrality.

16 MS. RICHARDSON: Well, I have been called upon --
17 I was appointed to this position and confirmed by this
18 committee, and confirmed by the Senate twice, to administer and
19 enforce an act that was passed by this Legislature 22 years
20 ago.

21 For example, my background as a management
22 advocate should not and has never played a role in terms of my
23 position as a judge.

24 I'm there to listen to all sides. I am there to
25 see, look at the merits of the case that comes before me. Take
26 a look at all the facts. Take a look at the decision sent by
27 the administrative law judge. Read the briefs that have been
28 filed by the parties. Review the testimony and the exhibits

1 that have been sent to us. Take a look at the legal precedence
2 that was established by my predecessors over the years. Take a
3 look at court decisions that have established precedent.

4 After I have reviewed all that, then rule
5 accordingly.

6 SENATOR HUGHES: Read Section 1140.2 of the
7 California State Labor Code that I read to you before with
8 respect to the ALRB. "It's hereby stated that the policy of our
9 state is to encourage and protect the rights, protect the right
10 of agricultural workers."

11 And you're saying to me, your job is to be a
12 judge and not to protect.

13 It's written in plain English.

14 MS. RICHARDSON: Maybe it's a matter of
15 semantics, Senator.

16 SENATOR HUGHES: No, it's a matter of written
17 law.

18 MS. RICHARDSON: No, from my part. I was just
19 saying from my part.

20 SENATOR HUGHES: It's a matter of
21 misinterpretation.

22 MS. RICHARDSON: What I wanted to say, if I may be
23 given the opportunity, is, I see in acting as a judge and
24 enforcing the law, I am enforcing those rights that were given
25 to the farmworkers by this statute 22 years ago. Because
26 without my agency, there would be no other place for the
27 farmworkers to go when their rights are violated.

28 Farmworkers do not have to be represented by a

1 union in order to be able to go before the employer and request
2 a raise, or request better conditions, and what have you.

3 If they are -- if they are retaliated against,
4 that farmworker, without being represented by a union, has the
5 rights to go to the nearest regional office and file a charge
6 against that employer.

7 Without our agency, you would have a law that
8 cannot be enforced. That's why I take my job very seriously,
9 because in enforcing the law, I am protecting those rights of
10 the farmworkers that were given by you Members of the
11 Legislature 22 years ago.

12 SENATOR HUGHES: Do you feel that you're worker
13 friendly?

14 MS. RICHARDSON: Yes, Senator.

15 SENATOR HUGHES: Why is it that in four
16 summarized cases, you dissented against is majority vote? These
17 cases are the Gourmet Harvesting case. You objected to the
18 majority ruling.

19 The Andrews Distribution Company case, you
20 objected to granting a one-hour union access as part of a
21 remedial settlement.

22 And in the Brighton Farming case, you disagreed
23 with the Board's finding that a particular employee walkout was
24 protected activity.

25 And the Gerawan Ranches case, you objected to the
26 Board's majority finding and argued that alleged violation by an
27 employee should have been upheld when an employee was discharged
28 for refusing to engage in interrogation and surveillance for the

1 employer.

2 And you say that you think that you are worker
3 friendly, when you went against your own Board, the majority of
4 your own Board?

5 MS. RICHARDSON: Senator, how many cases have you
6 cited there? Four cases?

7 SENATOR HUGHES: Four. It could only be one, as
8 far as I'm concerned.

9 All I want you to explain to me is why you felt
10 you were right in taking a dissenting vote.

11 MS. RICHARDSON: Well, that's four cases out of
12 181 decisions that I have participated in, Senator.

13 I have been there for ten-and-a-half years. I do
14 not have those cases before me, so I cannot tell you exactly
15 right now why I found what I found without going back and
16 looking at the facts.

17 But I have to say that four cases out of 181
18 decisions, if you're asking for somebody -- I'll be very candid.

19 I was appointed to be a judge. I was appointed
20 to enforce a law in a fair and impartial way.

21 If you're looking for somebody who will issue
22 decisions to go one side all the time, I am sorry. I am not
23 that person.

24 I was called upon, I was appointed to, I was
25 confirmed to take a look at the totality of the circumstances,
26 of the merits of the case before me, and not to prejudge it.
27 And based on that, to be able to make a determination.

28 And if somebody can say that only four cases out

1 of 181 decisions, I ruled against a farmworker, then I have to
2 say to you, Senator, if you don't call that worker friendly, I
3 do not know what that is.

4 CHAIRMAN LOCKYER: Senator Solis.

5 SENATOR SOLIS: Thank you for the opportunity to
6 be here and ask questions.

7 I have met with Ms. Richardson, I believe, on
8 other issues in my office. I have some questions, but I wanted
9 to go back, if I might for a moment, because I came in a little
10 late and wasn't clear on questions that might have been asked
11 regarding access.

12 If, in fact, there is a commitment on your part,
13 if you are confirmed, that you will not restrict or change the
14 current access rules? I didn't hear that, so I want to ask for
15 clarification.

16 MS. RICHARDSON: Yes, Senator. The question was
17 asked, and what I indicated to the Members of the Committee is
18 that that is not my intent, to limit or dismantle in any way the
19 existing rights that the unions have. That what I want to do is
20 to improve upon the processes.

21 And I gave an example in terms of what had
22 happened with the motion to deny access, where we feel -- I feel
23 that justice is not being served because we're hearing the
24 events that trigger the alledged violation six months, eight
25 months, a year and two years afterwards.

26 The same thing with the union when they feel that
27 their access rights are being violated, they file an unfair
28 labor practice charge. And in the so-called due process, it

1 will not get to us until year or two years later.

2 So I went, realizing and reading that the union
3 going to conduct a massive organizing campaign, I went to my
4 fellow Board members and I said, "There has to be a better way
5 of doing this." And I started looking at what's called
6 alternate dispute resolution, where we would be able to bring a
7 facilitator to be able to to meet with the parties and be able
8 to bring resolution right there.

9 And then, that decision would be -- would stay or
10 would be good until the formal process took place. It would not
11 be replacing anything that the parties have. It would not be
12 eliminating anybody's rights. It's interjecting an informal
13 process to see if the parties can come together.

14 SENATOR SOLIS: So, you are making a commitment,
15 then, that you will not erode your current rule?

16 MS. RICHARDSON: Correct. What I want to do is
17 improve upon the process.

18 SENATOR SOLIS: I just want that commitment.

19 I want it to be clear that the Rules Committee is
20 also understanding of that commitment before you vote.

21 Then the other question, I think, that Senator
22 Ayala raised was with respect to the caseload, and Senator
23 Lockyer asked you if there was backlog. You cited some numbers
24 going back to 1987.

25 Can you tell me what the current caseload is now
26 in terms of your backlog for '96 and '97?

27 MS. RICHARDSON: And I will make the same
28 distinction as I mentioned to Senator Lockyer. When you're

1 asking me about caseload, I'm responding in terms of the Board.
2 As you know, Senator, the Board and the General Counsel are two
3 separate entities.

4 SENATOR SOLIS: But you govern --

5 MS. RICHARDSON: The General Counsel does not
6 work for us. He's independently appointed by the Governor,
7 independently confirmed, and he has total and complete authority
8 over the prosecution of unfair labor practice charges. We
9 cannot control that.

10 We have to wait until those charges are
11 investigated, they turn into complaints. The complaints then go
12 to a hearing. And when the decision is issued by the
13 administrative law judge, if either party does not like the
14 decision, it's appealed to us.

15 So, when you ask me what is the current workload
16 before the Board, the court, as before the five-member Board, no
17 we do not have a caseload.

18 I think what perhaps what you were referring to
19 was the caseload of unfair labor practice charges in the General
20 Counsel's office. And I think somebody mentioned that there was
21 220-something.

22 But again, Senator, we have no control over that.

23 SENATOR SOLIS: Well, when you say don't have any
24 control, though, you obviously do have some influence in your
25 capacity --

26 MS. RICHARDSON: We do discuss --

27 SENATOR SOLIS: -- in encouraging movement.

28 MS. RICHARDSON: And we have done so.

1 SENATOR SOLIS: I'm concerned because I know that
2 there are several, 55 unresolved cases right now that are
3 pending, many of which have just -- have not been worked on or
4 received any kind of notification in the last few months.

5 And when you earlier said there was no caseload,
6 and yet in fact perhaps --

7 MS. RICHARDSON: Before the Board.

8 SENATOR SOLIS: Right, I understand that.

9 Nevertheless the employees are being dramatically
10 affected because of that in action, because of that workload.

11 MS. RICHARDSON: I understand, Senator.

12 SENATOR SOLIS: So, I would hope to see that
13 there's some improvement, whichever abilities of persuasion you
14 might have, to see that that happens. That is a major concern
15 for many Senators, so I am speaking on behalf of some that sit
16 on my committee, on the Industrial Relations Committee.

17 MS. RICHARDSON: I certainly understand that,
18 Senator, and I will do my very best to be able to communicate,
19 and continue communicating that to the General Counsel.

20 SENATOR SOLIS: The other question I have is, I
21 understand that through executive order that was issued by the
22 Governor that all agencies have to go out now and review
23 regulations.

24 I understand that you, your organization, is
25 proposing to have seven hearings throughout the state. Can you
26 please elaborate on the necessity of having that, and if you
27 could give me an example of the kind of attendance that you
28 received in the past year when you had hearings?

1 MS. RICHARDSON: Yes, Senator.

2 You're correct in that two or three months ago,
3 the Governor signed an executive order directing state agencies
4 to review their regulations by January 1st, 1999.

5 Again, we -- over the years when we -- my tenure,
6 we have been accused sometimes of being kind of like hidden
7 ourselves in an ivory tower and never let people know who we
8 are, and be able to have an exchange of ideas.

9 Most people are reluctant to talk us because we
10 are judges, and they're afraid that any kind of information,
11 anything that they might say will be -- will be giving some
12 detail as to a particular case, and in that case, we would have
13 to recuse ourselves; we could not participate.

14 And in most of my tenure, there was only three of
15 us, so we were very careful about not -- there was many times I
16 wanted to see an election. There was many times I wanted to sit
17 in an unfair practice hearing. But I couldn't, because if the
18 matter came before us, there was only three of us, I would have
19 to recuse myself, and with two, you cannot issue a decision.

20 So, in 1995, I think that's when I first met you,
21 Senator, in terms that we did -- we went out, and we did two
22 things. We held regulatory hearings, and we held what we called
23 public community sessions, where anybody could come to us and
24 say anything and everything that they wanted, or they needed, or
25 they complained about, or they didn't like about the ALRB.

26 Those were, very very well attended, especially
27 by farmworkers. And the UFW was a -- played a role in that.
28 And we had -- in many cases we had anywhere between 100 to 150

1 farmworkers that came to our hearings to let us know about the
2 problems that they were having.

3 SENATOR SOLIS: Did any employers attend?

4 MS. RICHARDSON: I was going to get to that.

5 SENATOR SOLIS: How many?

6 MS. RICHARDSON: The regulatory portion of that
7 was not very well attended.

8 The purpose of us sending out a memo and saying
9 not to conduct regulatory hearings in November, but this was to
10 hold hearings where we have have the parties come to us, and
11 tell us in terms of what changes, if any, they wanted of the
12 regulations.

13 SENATOR SOLIS: But my understanding is that
14 anyone, an employee or employer, can currently send you
15 information via the mail or personally --

16 MS. RICHARDSON: That is correct.

17 SENATOR SOLIS: -- come into the office. So, why
18 the need to have these hearings, when you didn't tell me how
19 many employers?

20 MS. RICHARDSON: I believe we had maybe in actual
21 growers, we had one in El Centro. In the other places, it was
22 the growers' representatives, attorneys, who attended.

23 This came to our attention -- again, there was no
24 hidden agenda in terms of going out and present our faces, and
25 let people know this is who we are. We are real people. You
26 can come and talk to us.

27 The representative from the UFW attended our
28 Board meeting a week ago Wednesday. Let us know that they

1 didn't think that was a fiscal, prudent exercise of the
2 expenditure of funds. They were not aware of the executive
3 order, but it was brought to our attention, and we indicated to
4 her that we're sensitive to that, and we will look at it. If
5 there's no reason to go out there, we will not have those
6 hearings.

7 SENATOR SOLIS: Just a question.

8 I think you heard you earlier, someone asked a
9 question regarding staffing. And when you conduct these public
10 hearings out in the field, you have to then draw on staff which
11 could be doing something otherwise, perhaps working on cases?

12 MS. RICHARDSON: Well, this would be only for the
13 Board members to go to.

14 I have to say, Senator, that in 1994, when we
15 went out, the three of us, to do this two sets of hearings, one
16 for the community and the other one for regulation, we were
17 conducting business at the same time. We never let anything go
18 away or get late because we were out there.

19 But that's beside the point. We know -- we have
20 heard the position of the union. We have heard you. We're
21 sensitive to it.

22 I certainly would have no problem in saying
23 there's no need to have it. We will review the regulations, and
24 at some point in time if we have anything --

25 SENATOR SOLIS: That's how you personally feel?

26 MS. RICHARDSON: I don't have a problem with
27 that, Senator.

28 SENATOR SOLIS: If they're not cost effective --

1 MS. RICHARDSON: If they're not cost effective --
2 we have been trying to be fiscally prudent, and I think that
3 this is a situation where the reorganization, that the Senator
4 brought to my attention, and that is, in trying -- when
5 somebody's trying to eliminate you, you don't feel too
6 positive.

7 SENATOR SOLIS: None of us are from that
8 persuasion, however.

9 MS. RICHARDSON: I'm glad to hear that.

10 SENATOR SOLIS: We would like to see there be
11 more sufficient funding so that these caseloads can be reduced,
12 and that folks can get the easement that they need out in the
13 State of California.

14 MS. RICHARDSON: Certainly, the General Counsel
15 would be happy to hear that.

16 SENATOR SOLIS: I want to be clear, though, that
17 you're someone who's going to help us in that effort. I, in my
18 capacity, overseeing your agency, we will want to have those
19 discussions and perhaps some hearings on that, you know, what my
20 feeling is about this issue.

21 MS. RICHARDSON: And I welcome that, and I think
22 that for a point of information, I believe it was two, three
23 years ago, maybe four years ago, the Board gave 100 [sic], to
24 show in terms of our interest in making sure that the workload
25 is reduced in terms of unfair labor practices.

26 Anywhere between two and four years ago, the
27 Board transferred \$110,000 to the General Counsel's budget so
28 that he could hire two additional fields examiners to bring that

1 workload down.

2 So, we have been sensitive, and we have been
3 responsive to that need to hire additional staff.

4 SENATOR SOLIS: Will you make that commitment
5 then, if you are confirmed, to move in that direction, to see
6 that we're not only frugal in our budget, but that we actually
7 make some attempt to try to get enough support to do the job
8 that you are, in fact, authorized to do, or to let this
9 Legislature know that?

10 MS. RICHARDSON: I am -- I am receptive to that,
11 and I will do everything that I can, Senator, to make that a
12 reality in whichever way I can help.

13 SENATOR SOLIS: I don't have any other questions.

14 CHAIRMAN LOCKYER: Other questions or comments?

15 Is there anyone present who wishes to make a
16 comment?

17 Did you want to do any wrap up or anything in
18 conclusion.

19 MS. RICHARDSON: Just to say thank you for giving
20 my the opportunity to appear before you.

21 I believe I have done a good job for the parties
22 that have come before the Board, and ultimately for the people
23 of California.

24 Doing this job for ten-and-a-half years has not
25 been an easy job. I have been called all kinds of names, but
26 again, it's a testament of the things that I am not biased one
27 way or the other. I'm there to call the cases on the merits and
28 not prejudging. And in doing so, and administering the law,

1 I'm protecting the rights of the farmworkers.

2 CHAIRMAN LOCKYER: Ms. Richardson, Senator Ayala,
3 I'm sorry, had to step out for a minute, but he asked that we
4 postpone voting until next week. That's a courtesy that we give
5 to any Member of the Committee that needs time to just reflect
6 on the record.

7 So, let me thank you for your forthright
8 testimony. I think you've demonstrated a judicial approach to
9 resolving disputes that come before you, and one that's
10 important to make this Board work well. So, let me thank you.

11 We won't need to take new testimony, I don't
12 think, and we'll just have a vote only next week.

13 MS. RICHARDSON: When you say next week, which
14 day of the week?

15 CHAIRMAN LOCKYER: I'm not sure. We'll have to
16 work around the other schedules.

17 MS. RICHARDSON: Thank you very much for the
18 opportunity.

19 [Thereupon. This portion of the
20 Senate Rules Committee hearing was
21 terminated at approximately 5:05 P.M.]

22 --ooOoo--

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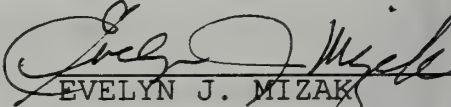
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APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

FELICE TANENBAUM, Consultant to SENATOR HUGHES

SHANNON HOOD, Consultant to SENATOR BRULTE

ALSO PRESENT

LAWRENCE J. GOLDZBAND, Director
Department of Conservation

SENATOR BYRON SHER

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: We're waiting for Senator Sher to be here for Mr. Goldzband.

I was asked by a Senate Member today to postpone consideration or voting, rather, on Ms. Richardson. That is our usual courtesy, so we will put that over until next week. Mr. Sher come on up.

Mr. Goldzband, why don't you join us. Hi. We had a chance to have a fairly thorough and interesting discussion. We were not able to get Senator Sher to join us last time because he was otherwise actively involved in another committee hearing. I believe he may have some questions today.

But let me just start, Mr. Director, by asking you if there is anyway in which you would care to supplement, or amend, or add to your prior testimony that would be clarifying for us?

As you sometimes, at least, virtually every speech I give, that night I think to myself, you know, I should have said it this way, or whatever. And if there's any of those in your case, you're welcome to add to the record, or I'll just call on Senator Sher.

MR. GOLDZBAND: You can call on Senator Sher.

The only thing I should correct is when I said Rocket Ishmael had left the Green Bay Packers, but it was Quadray Ishmael.

CHAIRMAN LOCKYER: Senator Sher.

SENATOR SHER: Thank you, Mr. Chairman. I

1 appreciate the Committee's courtesy in holding this matter over
2 while I was engaged. I hoped to be here when you talked to Mr.
3 Goldzband earlier.

4 CHAIRMAN LOCKYER: He was very charming.

5 SENATOR SHER: He's a charming gentleman.

6 CHAIRMAN LOCKYER: Mostly we learned that he
7 could dance between rain drops.

8 SENATOR SHER: I like him a lot, and I knew him
9 in an earlier capacity when he was working on energy issues.
10 So, I thought that was a good appointment the Governor has made.

11 And the reason I actually -- we exchanged
12 correspondence on a couple of subjects that I had reviewed with
13 your predecessor on both the bottle bill and the surface mining
14 laws, and we had good discussions.

15 And the issue particularly on the bottle bill
16 that I wanted to just get out here on the public record that was
17 of some concern to me was the fact earlier in the year, the
18 Department actually sponsored a bill which would have totally
19 repealed California's beverage container recycling law, a law
20 which, in my view, has been the most successful environmental
21 law the state has ever adopted in terms of public acceptance and
22 desire to participate in it.

23 And so that, I thought, had a destabilizing impact
24 on the private sector businesses engaged in recycling activities
25 in the bottle bill, and uncertainty among local governments
26 which depend on provisions in the bottle bill to aid them in
27 complying with AB 939, the law requiring waste diversion from
28 landfills.

1 And particularly since there aren't any studies
2 or analyses from your Department which would have justified a
3 repeal of what is really considered one of our successful
4 environmental laws, therefore I invited Mr. Goldzband come talk
5 to me. We actually shared with the Committee, we sent copies of
6 my letter to you and your letter to me, which the Rules
7 Committee got copies of.

8 Most recently, Mr. Goldzband came to see me. He
9 confirmed to me, and I just want to get this on the record, that
10 that action was not really designed to get rid of any recycling
11 law of beverage containers in California, but was to open up for
12 discussion some of the issues.

13 Here is the part I'd like to have you confirm,
14 Mr. Goldzband, for the Committee, what you told me in our most
15 recent meeting; namely, that you will be a champion for
16 protecting the integrity of the beverage container law in
17 California, including particularly provisions requiring
18 manufacturer responsibility for promoting and being responsible
19 for the recycling of the beverage container type.

20 Secondly, for funding of the convenience
21 programs, and particularly the curbside programs which the local
22 governments depend on.

23 And finally, continued funding of the inner-city
24 community conservation programs which have been so successful in
25 helping young people who might not otherwise get productive
26 work, and also helps the bottle bill.

27 So, could you confirm that all of that is true,
28 that you are a champion and you will support those.

1 SENATOR BRULTE: And could you do that in a way
2 where you don't lose Lewis and I?

3 [Laughter.]

4 MR. GOLDZBAND: Let me tell the Committee not
5 only what I said last week in the opening statement, but what I
6 think we discussed, which is that I think we can easily agree
7 that we should support the principles which underlie the
8 program. And the program has been successful in getting bottles
9 and cans and those containers from the landfill, or not going to
10 the landfill, as well as recycling them.

11 And we need to reduce the litter, which we have
12 done, and which we should continue to do, and we should reduce
13 the demand for landfill space, which the program does, and we
14 should aim for a high recycling rate. And recycling has become
15 a pervasive ethic. A lot of us do it in our daily lives.
16 Indeed, a lot of Californians do.

17 With regard to the actual three issues that I
18 think that you brought up, which were the manufacturers'
19 responsibility, convenience, and the conservation corps, I'll
20 take those one at a time.

21 As we have discussed, the idea of manufacturers'
22 responsibility was essentially settled ten-eleven years ago when
23 Governor Deukmejian signed the law. That is that manufacturers
24 have a responsibility, and it's an important part of the
25 program. And beverage manufacturers recognize that.

26 The question that I have, as you and I have
27 discussed, is how should that responsibility be carried out,
28 because there are a lot of ways you can carry out manufacturers'

1 responsibility. We had a discussion last week about simply
2 setting standards by a regulatory body, and making sure that you
3 meet those standards to basic micro-management.

4 Basically, the way I tend to look at it is that
5 there is a manufacturers' responsibility, and we ought to see if
6 we can carry it out as efficiently as we possibly can. And we
7 ought to make sure that we get as much input as we can to see if
8 we can do it in a way that is incredibly efficient.

9 With regard to convenience, I would argue that
10 convenience is a linchpin to this program. If people don't find
11 it convenient to recycle their containers, less containers will
12 be recycled.

13 Our consumer survey determined that curbside pick
14 up seems to be the most convenient method of recycling, followed
15 by taking containers to a recycling center.

16 Something like three-quarters of the state's
17 households are served by curbside. And the number one way of
18 trying to make it more -- try to make the program more
19 convenient, again, according to the survey, is to expand, make
20 the program -- expand the curbside opportunities. And that was
21 parts of the survey that we did earlier this year. It was the
22 first survey ever done specifically on the bottle bill.

23 CHAIRMAN LOCKYER: Do you know the largest urban
24 or suburban area that --

25 MR. GOLDZBAND: That doesn't have one.

26 CHAIRMAN LOCKYER: Yes.

27 MR. GOLDZBAND: I can find that out for you, sir.

28 One of the real issues that we have, and I've

1 discussed it with Senator Sher, with Senator Alpert as well, is
2 the idea of the urban rural issue, or actually suburban-urban
3 versus rural issue with regard to this program. Because, you
4 need to make it convenient, and we need to make sure that people
5 have the ability to recycle.

6 CHAIRMAN LOCKYER: I would think you'd want to
7 know where the gaps are in order to find out what the problems
8 that caused the gaps are.

9 MR. GOLDZBAND: No doubt about it.

10 SENATOR HUGHES: What do you do when someone
11 steals your containers?

12 I live in a neighborhood where this constantly
13 happens, they steal the container. And it's too much trouble to
14 call and ask them to leave another container, and I think a lot
15 of people fear that if they lose their containers, they're going
16 to be charged for them. You don't do enough advertising about
17 that.

18 SENATOR SHER: Those are the bins you're talking
19 about.

20 MR. GOLDZBAND: The bins; the blue box or the
21 green box.

22 SENATOR HUGHES: Those bins. I mean, it made it
23 convenient, but a lot of people --

24 CHAIRMAN LOCKYER: Are yours blue or green?

25 SENATOR HUGHES: I don't remember.

26 CHAIRMAN LOCKYER: It's probalby one of the two.

27 MR. GOLDZBAND: Mine is blue, and believe it or
28 not -- I can't believe you asked that question -- mine was taken

1 this past week.

2 SENATOR HUGHES: Mine was taken here in
3 Sacramento.

4 MR. GOLDZBAND: Mine was in San Francisco. I
5 figured I'll just go pick one up actually on Friday, because I
6 have the ability to do that.

7 I think that what we ought to make sure of is
8 that the local governments which run these programs have the
9 ability to have very good outreach to the folks who use them.
10 If it means dialing up your local disposal company and simply
11 say, "The next time you come around to pick up, would you drop
12 off."

13 SENATOR HUGHES: Then the neighbors get another
14 free one.

15 CHAIRMAN LOCKYER: I guess green is not in
16 demand. Mine doesn't get stolen.

17 MR. GOLDZBAND: It's that blue which is really
18 hot.

19 The final thing --

20 CHAIRMAN LOCKYER: I recommend an ugly color.

21 MR. GOLDZBAND: -- is the local -- brown -- the
22 local conservation corps. The local conservation corps are very
23 valuable and a very valuable part of the program. We are
24 working with them to make some real -- make a real nexus between
25 what they do for the program and the grant money which we give
26 out to them. Right now, it's candidly too nebulous for me. And
27 actually, it's a little too nebulous for them, because they want
28 to become entrepreneurial, and we want to give them the ability

1 to become entrepreneurial.

2 Right now, the Department funds about 25 percent
3 of their operating budgets on the average, which is a lot of
4 money for a nonprofit to depend upon for one source of funding.
5 So, we want to encourage them, and we are working with them to
6 take a look at working with others within the program and trying
7 to do some, for example, joint ventures, for example.

8 It's been a lot of fun working with local
9 conservation corps. I have actually done a couple site visits.
10 I understand I'm the first Director to do so. And we believe
11 they're a very valuable part of this, and they will no doubt be
12 part of the program as we put people around the table and start
13 working and try to figure out the new reauthorization.

14 I would sort of end my thoughts here by saying
15 that all the stakeholders are going to be part of the process,
16 because if we don't work with you all to try to get a bill that
17 the Governor signs, it's going to be a waste of our time. So,
18 we will include everybody in the process to try to formulate the
19 way we're going to do business.

20 SENATOR SHER: Mr. Chairman, I appreciate that
21 forthright response.

22 I think that you've answered all those questions
23 in the affirmative. There's nothing new here. These were all
24 parts of the original program.

25 The manufacturers of the glass, the plastic, and
26 the aluminum all at the outset said that they were confident
27 that their container type could make it in the market, and that
28 if the recycling value of their product wasn't enough to pay for

1 the cost of recycling, that they would bridge the gap. That is
2 the manufacturers' responsibility that I think you have
3 confirmed.

4 The convenience was something that was an
5 important part of the original bill. And while the curbside's
6 important, and particularly in the bill I carried, AB 939, to
7 help the local governments meet their diversion, I think we all
8 agree there at least has to be some reasonable opportunity for
9 consumer who pay that money in the grocery store, the deposit,
10 to have an opportunity to get it back. Because one thing you
11 don't get in curbside, where you put it out, you kind of give
12 up --

13 MR. GOLDZBAND: You make a choice.

14 SENATOR SHER: -- to get the money back.
15 Therefore, the local government gets that amount and helps
16 support the curbside convenience.

17 But at least there ought to be some reasonable
18 opportunity for those who pay in the store and want to get the
19 money back to have it. And I think we agreed on that point,
20 too.

21 I'm very satisfied with your responses, and also
22 your idea that everybody work together. I assume that includes
23 Legislators. We will be part of the effort to develop any
24 consensus for change, if there is to be any change.

25 I think you're an outstanding candidate.

26 I'll go on record here, Mr. Chairman, saying that
27 I think Mr. Goldzband's a very good candidate, and I certainly
28 want to vote and will vote for him, assuming he clears this

1 committee.

2 CHAIRMAN LOCKYER: Fair assumption.

3 I notice you didn't respond to the bill the
4 Senator asked specifically about.

5 MR. GOLDZBAND: Oh, I thought I did.

6 Let me respond this way.

7 CHAIRMAN LOCKYER: You can blame somebody else.

8 MR. GOLDZBAND: No, I wouldn't dare do that. As
9 the Director of the Department, I think it falls on me.

10 The bill was introduced by Senator Maddy at our
11 request. We did so to ensure that the stakeholders come to the
12 table basically with --

13 CHAIRMAN LOCKYER: You got their attention.

14 MR. GOLDZBAND: We wanted them to have an
15 incentive to come to us, and for us to go to them, and to think
16 outside the box. And I think that it has worked.

17 I also think that what we really wanted to do as
18 well is to demonstrate to them that we don't have a preconceived
19 notion of exactly how we do things, that we want to get their
20 ideas so we can have a consensus process.

21 SENATOR AYALA: There's about 15 million acres in
22 the Williamson Act in California. There's 15,000 in my own
23 district under the preserved status.

24 While I was on the Board of Supervisors, we
25 created that preserve. Now it's been broken up by LAFCO.
26 They're not elected; the Supervisors are. And LAFCO is now
27 letting that go to development and designating what area is
28 going to move to what city.

1 It's very unique because the 15,000 acres, the
2 three cities want part it.

3 It wasn't the Board of Supervisors who acted on
4 that. It was LAFCO.

5 I wonder how that came about?

6 MR. GOLDZBAND: Maybe the best way for me to
7 answer that, and it's not going to satisfy you completely, is
8 that you're not alone. We have discovered in our enforcement of
9 the Williamson Act that LAFCOs, and the counties, and the cities
10 don't always communicate with each other, and candidly, don't
11 always follow the Williamson Act rules. We found that down in
12 the Central Valley, and we're actually working on a case now in
13 which that actually has happened.

14 What we're trying to do through the Williamson
15 Act Advisory Committee as well as working with other Williamson
16 Act stakeholders, such as AFT, and the Farm Bureau, and so on,
17 is try to make much more clear the rules with regard to the
18 Williamson Act so that there can be no question about what this
19 paragraph means or that sentence means.

20 It all comes down to the voluntary agreement
21 between the land owner and the state. And the agreement that
22 the regulatory compact, really, the state has with the local
23 governments to enforce that law.

24 And so, all I can tell you is that we have seen
25 more and more pressure on Williamson Act land. We will continue
26 to see more and more pressure, and it's our Department's belief
27 and our Department's purpose to ensure that the Williamson Act
28 is not only adequately enforced, but rigorously enforced.

1 One of the things we're trying to do actually,
2 and Senator Costa introduced legislation on, on our behalf, is
3 to make the Williamson Act a little more flexible so that we can
4 actually -- if there's a Williamson Act problem, we can actually
5 get land that is -- has a conservation easement on it in
6 perpetuity in exchange for the land that's problematic.

7 SENATOR AYALA: The problem with the Williamson
8 Act is the arm of the state, and nothing anyone can do to appeal
9 it to the Board of Supervisors. They can do any other action by
10 the Planning Commission or anyone else, because you have the
11 right to appeal that to the Board of Supervisors or go to court.
12 I don't know of anyone ever challenging it because it's too
13 expensive, number one. Not only are you paying for your
14 attorney, but you're paying for the county counsel. You're
15 paying for both counsels, you know.

16 So, I think that LAFCO's been in existence for
17 quite sometime. It's about time that it was streamlined a
18 little bit because it's too awkward, too clumsy. And I don't
19 know whose responsibility it falls under when you start getting
20 annexations and incorporations.

21 MR. GOLDZBAND: Blanket annexations.

22 SENATOR AYALA: It's a function of LAFCO, but I
23 just wonder how they got involved in authorizing the breaking of
24 the preserve.

25 MR. GOLDZBAND: If you'd allow me, sir, I'd love
26 to sit down with you on that and bring along our folks who
27 actually work with the LAFCOs and so on, and we can try to
28 figure out if there's a better way of doing things.

1 SENATOR AYALA: Thank you.

2 CHAIRMAN LOCKYER: Any further questions.

3 Mr. Simoni, Ms. George, your clients are listed
4 as support. Does anyone have anything they wish to add, or may
5 I ask for a motion?

6 SENATOR AYALA: So move.

7 CHAIRMAN LOCKYER: We have a motion to confirm.
8 Call the roll, please.

9 SECRETARY WEBB: Senator Ayala.

10 SENATOR AYALA: Aye.

11 SECRETARY WEBB: Ayala Aye. Senator Brulte.
12 Senator Hughes.

13 SENATOR HUGHES: Aye.

14 SECRETARY WEBB: Hughes Aye. Senator Lewis.

15 SENATOR LEWIS: Aye.

16 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

17 CHAIRMAN LOCKYER: Aye.

18 SECRETARY WEBB: Lockyer Aye.

19 SENATOR BRULTE: Brulte Aye.

20 CHAIRMAN LOCKYER: Five to zero.

21 Good luck. We wish you well. Thank you.

22 MR. GOLDZBAND: Thank you very much Mr. Chairman,
23 Senators.

24 [Thereupon. This portion of the
25 Senate Rules Committee hearing was
26 terminated at approximately 3:14 P.M.]

27 --ooOoo--

28

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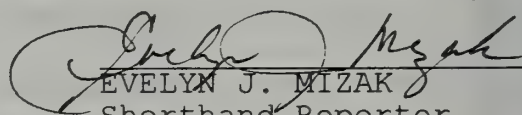
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10:00 A.M.

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17 10:00 A.M.

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

FELICE TANENBAUM, Consultant to SENATOR HUGHES

SHANNON HOOD, Consultant to SENATOR BRULTE

FOR VOTE ONLY

IVONNE R. RICHARDSON, Member
Agricultural Labor Relations Board

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: Then it's Ivonne Richardson,
Member of the Ag. Labor Board.

Members, we've had a hearing on the matter. I
suggested that we wouldn't take new testimony, that we just have
it held for a vote only. I think there's been various
opportunities just to discuss issues with the appointee.

Any other comments?

SENATOR HUGHES: I'd like to move it.

CHAIRMAN LOCKYER: We have a motion to recommend
confirmation to the Floor. Do you want to call the roll on
that.

SECRETARY WEBB: Senator Ayala.

SENATOR AYALA: Aye.

SECRETARY WEBB: Ayala Aye. Senator Brulte.

SENATOR BRULTE: Aye.

SECRETARY WEBB: Brulte Aye. Senator Hughes.

SENATOR HUGHES: Aye.

SECRETARY WEBB: Hughes Aye. Senator Lewis.

SENATOR LEWIS: Aye.

SECRETARY WEBB: Lewis Aye. Senator Lockyer.

CHAIRMAN LOCKYER: Aye.

SECRETARY WEBB: Lockyer Aye. Five to zero.

[Thereupon. This portion of the
Senate Rules Committee hearing was
terminated at approximately 10:09 A.M.]

--ooOoo--


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